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been there three years. Mr. Frank's general character is good. I have never heard anything against him. I have never met Mr. Frank anywhere or at any time for any immoral purpose. I have made complaint about girls flirting out of the windows with the men on the outside. After seven o'clock, the girls are not supposed to be in the dressing room. There is no toilet or bathtub in the dressing room. There is no lock on the door.

CROSS EXAMINATION. They were all complaining up there on the fourth floor about the girls flirting out of the window, and some of us elderly ladies put a stop to it by reporting it to Mr. Darley. The girls were not fast, but they would flirt. Mrs. Carson, I and some of the other ladies reported it to Mr. Darley last Spring, about a year ago. The girls simply said they were standing at the windows flirting out of the windows with men in the street. Girls did not go into the dressing room to rest, they would go to change their clothes before work time, and after finishing work. I have never heard any talk about Frank ~~affixing~~ taking a girl off in a dark place and putting his arms around her.

MISS IRENE CARSON, Sworn for the defendant.

I worked for 15 months on the fourth floor of the pencil factory. I have known Mr. Frank during that time. His character is good. I am a sister of Miss Rebecca Carson, and a daughter of Mrs. E. H. Carson. I was with my sister on Whitehall St. On April 26 and recollect seeing Mr. Frank there. I have never met Mr. Frank at any time or place for any immoral purpose.

MRS. J. J. WARDLAW, Sworn for the defendant.

I worked at the pencil factory four years. I worked on the fourth floor. Mr. Frank's character is good. I have never met Mr. Frank at any time or place for any immoral purpose.

CROSS EXAMINATION. I have never heard of any improper relation of Mr. Frank with any of the girls at the factory. I have never heard of his putting his arm around any girl on the street car, or going to the woods with them.

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MISS EMILY MAYFIELD, Sworn for the defendant.

I worked at the pencil factory last year during the summer of 1912. I have never been in the dressing room when Mr. Frank would come in and look at anybody that was undressing.

CROSS EXAMINATION. I work at Jacob's Pharmacy. My sister used to work also at the pencil factory. I don't remember any occasion when Mr. Frank came in the dressing room door while Miss Irene Jackson and her sister were there.

MISSES ~~VELMA HAYS? MINNIE FOSTER?~~ ANNIE OSBORNE,

REBECCA CARSON, MAUDE WRIGHT, and MRS. ELLA THOMAS, All sworn for the defendant, testified that they were employees of the National Pencil company; that Mr. Frank's general character was good; that Conley's general character for truth and veracity was bad and that they would not believe him on oath.

MISSES MOLLIE BLAIR, ETHEL STEWART, CORA COWAN, B.D.

SMITH, LIZZIE WORD, BESSIE WHITE, GRACE ATHERTON, and MRS. BARNES all sworn for the defendant testified that they were employees of the National Pencil Company, and work on the fourth floor of the factory; that the general character of Leo M. Frank was good; that they have never gone with him at any time or place for any immoral purpose, and that they have never heard of his doing any thing wrong.

ANNIE HOWELL,

Velma Hays, Minnie Foster

MISSES CORINTHIA HALL, LILLIE M. GOODMAN, JENNIE MAY,

FIELD, IDA HOLMES, WILLIE HATCHETT, MARY HATCHETT, MINNIE SMITH, MARJORIE McCORD, LENA McMURTY, MRS. W.R. JOHNSON, MRS. S.A. WILSON, MRS. GEORGIA DENHAM, MRS. O. JONES, MISS ZILLA SPIVEY, CHARLES LEE, N.V. DARLEY, F. ZIGANKI, and A.C. HOLLOWAY, all sworn for the defendant, testified that they were employees of the National Pencil Company and knew Leo M. Frank, and that his general character was good.

D.I. MacINTYRE, B. WILDAUER, MRS. DAN KLEIN, ALEX DITTLER, DR. J. E. SOMMERFIELD, F.G. SCHIFF, ALL. GUTHMAN, JOSEPH GERSHON, P.D. McCARLEY, MRS. M. W. MEYER, MRS. DAVID MARX, MRS. A. I. HARRIS

000608

M. S. RICE, L. H. MOSS, MRS. L. H. MOSS, MRS. JOSEPH BROWN, E.E. FITZPATRICK, EMIL DITTLER, WM. BAUER, MISS HELEN LOEB, AL. FOX, MRS. MARTIN MAY, JULIAN V. BOEHM, MRS. MOLLIE ROSENBERG, M. H. SILVERMAN, MRS. M.L. STERNE, CHAS. ADLER, MRS. R. A. SONN, MISS RAY KLEIN, A. J. JONES, L. EINSTEIN, J. BERNARD, J. FOX, MARCUS LOEB, FRED HELLBRON, A. G. HOLLOWAY, MILTON KLEIN, MRS. J. E. SOMMERFIELD, NATHAN COPLAN, all sworn for the defendant, testified that they were residents of the City of Atlanta, and have known Leo M. Frank ever since he has lived in Atlanta; that his general character is good.

MRS. M. W. CARSON, MARY PIRK, MRS. DORA SMALL, MISS JULIA FUSS, R. P. BUTLER, JOE STELKER, all sworn for the defendant, testified that they were employees of the National Pencil Company; that they knew Leo M. Frank and that his general character is good.

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STATEMENT OF LEO M. FRANK.

Gentlemen of the Jury: In the year 1884, on the 17th day of April, I was born in ^{Paris} Quers, Texas. At the age of three months, my parents took me to Brooklyn, New York, and I remained in my home until I came South, to Atlanta, to make my home here. I attended the public schools of Brooklyn, and prepared for college, in Pratt Institute, Brooklyn, New York. In the fall of 1902, I entered Cornell University, where I took the course in mechanical engineering, and graduated after four years, in June, 1906. I then accepted a position as draftsman with the B. F. Sturtevant Company, of High Park, Massachusetts. After remaining with this firm for about six months, I returned once more to my home in Brooklyn, where I accepted a position as testing engineer and draftsman with the National Meter Company of Brooklyn, New York. I remained in this position until about the middle of October, 1907, when, at the invitation of some citizens of Atlanta, I came south to confer with them in reference to the starting and operation of a pencil factory, to be located in Atlanta. After remaining here for about two weeks, I returned once more to New York, where I engaged passage and went to Europe. I remained in Europe nine months. During my sojourn abroad, I studied the pencil business, and looked after the erection and testing of the machinery which had been previously contracted for. The first part of August, 1908, I returned once more to America, and immediately came South to Atlanta, which has remained my home ever since. I married in Atlanta, an Atlanta girl, Miss Lucile Selig. The major portion of my married life has been spent at the home of my parents in law, Mr. and Mrs. E. Selig, at 68 East Georgia Avenue. My married life has been

my life. My duties as Superintendent of the National Pencil Company were, in general, as follows: I had charge of the technical and mechanical end of the factory, looking after the operations and seeing that the product was turned out in quality equal to the standard which is set by our competitors. I looked after the installation of new machinery and the purchase of new machinery. In addition to that, I had charge of the office work at the Forsyth Street plant, and general supervision of the lead plant, which is situated on Bell Street. I looked after the purchase of the raw materials which are used in the manufacture of pencils, kept up with the market of those materials, where the prices fluctuated, so that the purchases could be made to the best possible advantage. On Friday, April 25th, I arrived at the pencil factory on Forsyth Street, at about seven o'clock,--my usual time. I immediately started in on my regular routine work, looking over papers that I had laid out the evening before, and attending to any other work that needed my special attention that morning. At about 9:30, I went over to the office of the General Manager and Treasurer, Mr. Sigmond Montag, whose office is at Montag Brothers, on Nelson Street. I stayed over there a short time, got what papers and mail had arrived over there--all the mail for the pencil company comes over there to their office--I got that mail and brought it back to Forsyth Street. I then separated the mail and continued along my usual routine duties in the office on Forsyth Street. At about eleven o'clock, Mr. Schiff handed me the pay-roll books covering the plants at Forsyth Street and at Bell Street, for me to check over to see that the amounts and the extensions were correct. Of course, this work has to be very carefully done, so that the proper amount of money is drawn from the bank.

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This checking took me until about 12:30, P.M., when I made out the amount on a slip of paper that I wished to have drawn from the bank, went over to Montag Brothers, had the checks drawn and signed by Mr. Sigmond Montag, after which I returned to Forsyth Street and got the leather bag in which I usually carry the money and the coin from the bank, and got the slip on which I had written the various denominations in which I desired to have the pay-roll made out, accompanied by Mr. Herbert Schiff, my assistant, went to the Atlanta National Bank, where I had the checks cashed. Returning to the factory in company with Mr. Schiff, I placed this bag containing the money for the pay-roll in the safe and locked it. At this time, my wife called for me and in her company and that of Mr. Schiff, I went over to the car and took my wife home to lunch. After lunch, I returned to the factory and took a tour for about an hour through the factory, after which I then assisted Mr. Schiff in checking over the amounts on the pay-envelopes,-- checking the money against the duplicate slips that we had gotten from the bank, to see that the correct amount had been given us, and I helped Mr. Schiff checking over the money and in filling the envelopes. This took us approximately until a quarter to six, to fill the envelopes, seal them, and place them in the box that we have over there, with two hundred pigeon holes, and which we call our pay-off box. While I was so occupied with Mr. Schiff in filling these envelopes, a young man by the name of Wright, who had helped us out as a clerk in the office during the past week, came in and I paid him in cash, as Mr. Schiff, I found, neglected to put his name on the pay-roll; I just made out a ticket for the amount of money he drew and put it in the cash box and charged it to the cash box and not to the pay-roll. At a quarter to six, payment

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of the help took place, Mr. Schiff taking all the envelopes that were due the help who had worked from April 18th to 24th, inclusive, out to the pay-roll window, which is entirely outside of either my inner office or the outer office and out in the hall beyond,--a little window that we have built. I sat in my office checking over the amount of money which had been left over. This amount was equal,--or should have been equal, to the amount that had been loaned out in advance to help and had been deducted when we were filling the envelopes. In checking this amount over,--as near as I can recollect it, there was about \$15.00,--I noticed a shortage of about \$1.20,--something over a dollar, at any rate, and I kept checking to see if I couldn't find the shortage going over the various deductions that had been made, but I couldn't locate it that evening. After the help had been paid off, during which time as I sat in my office, no one came into my office who asked me for a pay envelope or for the pay envelope of another. After the paying off of the help had taken place, Mr. Schiff returned and handed me the envelopes which were left over, bound with an elastic band, and I put them in the cash compartment,--which is different from the cash box,--a certain cash compartment in the safe, the key to which is kept in my cash box. I placed them in the safe, and Mr. Schiff busied himself clearing up the books and the files and placing them in the safe. While he was doing that, I placed in the time clocks, the slips to be used the next day. I took out the two time slips which were dated April 25, which had been used by the help on Friday, April 25th, and took two slips out to the clock, the ends of which I creased down so that they would fit into the cylinder inside of the clocks; and I noticed that I had neglected to stamp the date on them, so I just wrote on them "April 26, 1913,"

000601

the way we usually do with the time clock. After placing these slips in the clock and bringing those back in the office, Mr. Schiff and myself left for home, it being about 6:30. I neglected to state that while I was sitting in the office, Mr. Schiff was paying off Newt Lee--these are the two time slips I took out--

Gentlemen, as I was saying, these two slips that had April 26th, 1913 written at the bottom are the two slips I put in the clock on the evening of Friday April 25th, to be used on the day following, which, of course, was April 26th. I neglected to mention also, in going over my duties at the factory, that Mr. N. V. Darley was superintendent of labor and of manufacture, it fell to his duty to engage the help and to distribute the help throughout the plant, and to discharge the help in case it was necessary; it was also due to him whether their wages were raised or not. In other words, he was the man that came directly in contact with the help. Moreover, he saw that the goods progressed through the factory without stopping, easily, quickly, and economically manufactured. On Friday evening, I got home at about 6:30, had my supper, washed up, then went with my wife to the residence of her ~~husband~~^{uncle}, Mr. Carl. Wolfsheimer and his wife and myself played a game of auction bridge for the balance of the evening. My wife and I returned home and retired at about eleven o'clock. On Saturday April 28th, I rose between seven and seven thirty and leisurely washed and dressed, had my breakfast, caught a Washington Street or Georgia Avenue car, --I don't recall which, at the corner of Washington and Georgia Avenue, and arrived at the factory on Forsyth Street, the Forsyth Street plant, at about 8:30, is my recollection.

On my arrival at the factory, I found Mr. Holloway, the day watchman, at his usual place, and I greeted him in my usual

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way; I found Alonzo Mann, the office boy, in the outer office, I took off my coat and hat and opened my desk and opened the safe, and assorted the various books and files and wire trays containing the various papers that were placed there the evening before, and distributed them in their proper places about the office. I then went out to the shipping room and conversed a few minutes with Mr. Irby, who at that time was shipping clerk, concerning the work which he was going to do that morning, through, to the best of my recollection, we did no shipping that day, due to the fact that the freight offices were not receiving any shipments, due to its being a holiday. I returned to my office, and looked through the papers, and assorted out those which I was going to take over on my usual trip to the General Manager's office that morning; I then turned to the invoices covering shipments which were made by the Pencil Factory on Thursday, April 24th, and which were typewritten and figured out on Friday, April 25th, by Miss Eubanks, the stenographer who stays in my office; she had hurried through with her work that day, previous to going home, so she could spend the holiday in the country where she lived; I didn't get to checking over those invoices covering these shipments on Friday, due to the fact that Mr. Schiff and myself were completely occupied the entire day until we left the factory, with the pay-roll, so naturally, as these invoices covering shipments which were made on April 25th, ought to have been sent to the customers, I got right to work in checking them. Now, I have these invoices here; these papers have not been exhibited before, but I will explain them. ~~You have seen some similar to these.~~ Of all the mathematical work in the office of the Pencil Factory, this very operation, this very piece of work that I have now before me, is the most important, it is the invoices covering shipments that are sent to customers, and

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it is very important that the prices be correct, that the amount of goods shipped agrees with the amount which is on the invoice, and that the terms are correct, and that the address is correct, and also in some cases, I don't know whether there is one like that here, there are freight deductions, all of which have to be very carefully checked over and looked into, because I know of nothing else that exasperates a customer more than to receive invoices that are incorrect; moreover, on this morning, this operation of this work took me longer than it usually takes an ordinary person to complete the checking of the invoices, because usually one calls out and the other checks, but I did this work all by myself that morning, and as I went over these invoices, I noticed that Miss Eubanks, the day before, had evidently sacrificed accuracy to speed, and every one of them was wrong, so I had to go alone over the whole invoice, and I had to make the corrections as I went along, figure them out, extend them, make deductions for freight, if there were any to be made, and then get the total shipments, because, when these shipments were made on April 24th, which was Thursday, this was the last day of our fiscal week, it was on this that I made that financial sheet which I make out every Saturday afternoon, as has been my custom, it is on this figure of total shipments I make that out, so necessarily it would be the total shipments for the week that had to be figured out, and I had to figure every invoice and arrange it in its entirety so I could get a figure that I would be able to use. The first order here is from Hilton, Hart & Kern Company, Detroit, Mich., here is the original order which is in the file of our office, here is the transcription which was made on March 28th. It hadn't been shipped until April 24th, this customer ordered 100 gross of No. 2 of a certain pencil

stamped "The Packard Motor Car Company," 125 gross of No. 3 and 50 gross of No. 4; those figures represent the grade or hardness of the lead in the pencils; we shipped 100 gross of No. 2, 11 1/2 gross of No. 3, and 49 gross of No. 4, the amount of the shipment of No. 3 is short of the amount the customer ordered, therefore, there is a suspense shipment card attached to it, as you will notice, the first shipment on this order took place on April 24th, it was a special order and a special imprint on it, and therefore, the length of time, order received at the factory on March 18th. In invoicing shipments made by the Pencil Company, our method is as follows: We make out in triplicate, the first or original is a white sheet, and that goes to the customers; the second is a pink sheet and that goes over to the General Manager's office and is filed serially, that is, chronologically; one date on the top, and from that the charges are made on the ledger, and the last sheet or third sheet is a yellow sheet, which is here, those are placed in a file in my office, and are filed alphabetically. These yellow sheets I have here are not the yellow sheets I had that day, because they have since been corrected, I am just taking the corrected sheets, I made the corrections, Miss Eubanks returned on Monday and saw the corrections I had made in pencil on the white sheets, and made another set of triplicates afterwards, and I presume made them correct, I was not there, and I don't know. These orders are respectively Hilton, Hart & Kern Company, L. W. Williams & Company of Fort Worth, Tex., the Fort Smith Paper Company of Fort Smith, Ark., S. O. Barnum & Sons, Buffalo, N. Y., S. T. Warren & Company, South Clarke St., Chicago, Ill, S. H. Kress Company, warehouse at 91 Franklin St., New York, N.Y.; there is an order that we have

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to be particularly careful with, because all these five and ten cent syndicates have a great deal of red tape. These invoices, though they were typed on April 25th, Friday, were shipped on April 24th, and bear date at the top on which the shipment was made, irrespective of the date on which these are typewritten; in other words, the shipments took place April 24th, and that date is at the top, typewritten, and a stamp by the office boy at the bottom, April 24th. Among other things that the S. H. Kress Company demands is that on their orders, you must state whether or not it is complete, the number of the store, and by which railroad the shipment goes. Here is one from F. W. Woolworth & Company, Frankfort, Ind., take the following illustrations: Less 95 lbs., at 86 cents per hundred lbs., freight credit; in other words, we had to find out what the weight of that shipment was, and figure out the amount of credit that they were entitled to on the basis of 86 cents for every 100 lbs. shipped. Then, here comes one to Gottlieb & Sons, one of our large distributors in New York, N.Y., they have a freight allowance of ~~86~~⁷ per hundred lbs. also, and their shipment amounted to 618 lbs., on Thursday, April 24th, — That was a shipment of throw-outs, or jobs.

I started on this work, as I said, and had gone into it in some detail, to show you the carefulness with which the work must be carried out, I was at work on this one at about 9 o'clock, as near as I remember, Mr. Darley and Mr. Wade Campbell, the inspector of the factory, came into the outer office, and I stopped what work I was doing that day on this work, and went to the outer office and chatted with Mr. Darley and Mr. Campbell for ten or fifteen minutes, and conversed with them, and joked with them, and while I was talking to them, I should

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Smith came in and asked me for her pay envelope, and for that of her sister-in-law, and I went to the safe and unlocked it and got out the package of envelopes that Mr. Schiff had given me the evening before, and gave her the required two envelopes, and placed the remaining envelopes that I got out, that were left over from the day previous, in my cash box, where I would have them handy in case others might come in, and I wanted to have them near at hand without having to jump up and go to the safe every time in order to get them; I keep my cash box in the lower drawer on the left hand side of my desk. After Miss Smith had gone away with the envelopes, a few minutes, Mr. Darley came back with the envelopes, and pointed out to me an error in one of them, either the sister-in-law of Miss Mattie Smith, she had gotten too much money, and when I had deducted the amount that was too much, that amount balanced the pay-roll, the error in the pay-roll that I had noticed the night before, and left about five or ten cents over; those things usually right themselves anyhow. I continued to work on those invoices, when I was interrupted by Mr. Lyons, Superintendent of Montag Brothers, coming in, he brought me a pencil display box that we call the Panama assortment box, and he left it with me, he seemed to be in a hurry, and I told him if he would wait for a minute I would go over to Montag Brothers' with him, as I was going over there; and he stepped out to the outer office, and as soon as I come to a convenient stopping place in the work, I put the papers I had made out to take with me in a folder, and put on my hat and coat and went to the outer office, when I found that Mr. Lyons had already left. Mr. Darley left with me, about 9:35 or 9:40, and we passed out of the factory, and stopped at the corner of Hunter and Forsyth Streets, where

bought a package of Favorite cigarettes, and after we had our drink, we conversed together there for some time, and I lighted a cigarette and told him good-bye, as he went in one direction, and I went on my way then to Montag Brothers', where I arrived, as nearly as may be, at 10 o'clock, or a little after; on entering Montag Brothers, I spoke to Mr. Sig. Montag, the General Manager of the business, and then the papers which I collected, which lay on his desk, I took the papers out and transferred them into the folder, and took the other papers out, which I had in my folder, and distributed them at the proper places at Montag Brothers, I don't know just what papers they were, but I know there were several of them, and I went on chatting with Mr. Montag, and I spoke to Mr. Matthews, and Mr. Cross, of the Montag Brothers, and after that I spoke to Miss Hattie Hall, the Pencil Company's stenographer, who stays at Montag Brothers', and asked her to come over and help me that morning; as I have already told you, practically every one of these invoices was wrong, and I wanted her to help me on that work, and in dictating the mail; in fact, I told her I had enough work to keep her busy that whole afternoon if she would agree to stay, but she said she didn't want to do that, she wanted to have at least half a holiday on Memorial Day. I then spoke to several of the Montag Brothers' force on business matters and other matters, and after that I saw Harry Gottheimer, the sales manager of the National Pencil Company, and I spoke at some length with him in reference to several of his orders that were in work at the factory, there were two of his orders especially that he laid special stress on, as he said he desired to ship them right away, and I told him I didn't know how far along in process of

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manufacture the orders had proceeded, but if he would go back with me then I would be very glad to look for it, and then tell him when we could ship them, and he said he couldn't go right away, he was busy, but he would come a little later, and I told him I would be glad for him to come over later that morning or in the afternoon, as I would be there until about 1 o'clock in the morning, and after three. I then took my folder and returned to Forsyth Street alone. On arrival at Forsyth Street, I went to the second or office floor, and I noticed the clock, and it indicated five minutes after 11 o'clock. I saw Mr. Holloway there, and I told him he could go as soon as he got ready, and he told me he had some work to do for Harry Denham and Arthur White, who were doing some repair work up on the top floor, and he would do the work first. I then went into the office, I went in the outer office, and found Miss Hattie Hall, who had preceded me over from Montag's, and another lady who introduced herself to me as Mrs. Arthur White, and the office boy; Mrs. Arthur White wanted to see her husband, and I went into the inner office, and took off my coat and hat, and removed the papers which I had brought back from Montag Brothers in the folder, and put the folder away. It was about this time that I heard the elevator motor start up and the circular saw in the carpenter shop, which is right next to it, running, I heard it saw through some boards, which I supposed was the work that Mr. Holloway had referred to. I separated the orders from the letters which required answers, and took the other material, the other printed matter that didn't need immediate attention, I put that in various trays, and I think it was about this time that I concluded I would look and see how far along the reports were, which I use in getting up my financial report every Saturday afternoon, and to my surprise I found that the

sheet which contains the record of pencils packed for the week didn't include the report for Thursday, the day the fiscal week ends; Mr. Schiff evidently, in the stress of getting up, figuring out and filling the envelopes for the pay-roll on Friday, instead of, as usual, on Friday and half the day Saturday, had evidently not had enough time. I told Alonzo Mann, the office boy, to call up Mr. Schiff, and find out when he was coming down, and Alonzo told me the answer came back over the telephone that Mr. Schiff would be right down, so I didn't pay any more attention to that part of the work, because I expected Mr. Schiff to come down any minute. It was about this time that Mrs. Emma Clark Freeman and Miss Corinthia Hall, two of the girls who worked on the fourth floor, came in, and asked permission to go upstairs and get Mrs. Freeman's coat, which I readily gave, and I told them at the same time to tell Arthur White that his wife was downstairs. A short time after they left my office, two gentlemen came in, one of them a Mr. Graham, and the other the father of a boy by the name of Earle Burdette; these two boys had gotten into some sort of trouble during the noon recess the day before, and were taken down to police headquarters, and of course didn't get their envelopes the night before, and I gave the required pay envelopes to the two fathers, and chatted with them at some length in reference to the trouble their boys had gotten into the day previous. And just before they left the office, Mrs. Emma Clark Freeman and Miss Corinthia Hall came into my office and asked permission to use the telephone, and they started to the telephone, during which time these two gentlemen left my office. But previous to that, when these two gentlemen came in, I had gotten Miss Hattie Hall, in and dictated what mail I had to give her, and she went out and was typewriting the mail; before these girls finished

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their telephoning Miss Hattie Hall finished
the typewriting of these letters and brought them to my desk to read over and sign, which work I started. Miss Clark and Miss Hall left the office, as near as may be, at a quarter to twelve, and went out, and I started to work reading over the letters and signing the mail. I have the carbon copies of these letters which Miss Hall typewrote for me that morning here, attached to the letters from the customers, or the parties whose letter I was answering; they have been introduced, and have been identified. I see them here (Defendant's Exhibit 8),-- Southern Bargain House, there was a letter from Shode-Lombard, dye makers, 18 Franklin Street, the American Die Lock Company Newark, N.J., another letter to Shode-Lombardt Company in answer to one of theirs about a die, Shode-Lombardt Company being in New York, one to Henry Disston & Sons, in reference to a knife which they sent us to be tried out, a circular knife, one to J. B. McCreey, Five & Ten Cent Syndicate, one to the Pullman Company of Chicago, Ill, in reference to their special imprint pencils, which they were asking us to ship as soon as possible, one to A. J. Sassner, another die maker; these letters are copies of the ones I dictated that morning; I signed these letters, and while I was signing, as Miss Hall brought these letters in to be signed, I gave her the orders which had been received by me that morning at Montag's office, over at the General Manager's office, I gave her these orders to be acknowledged. I will explain our method of acknowledgment of orders in a few minutes. I continued signing the letters and separating the carbon copies from the letters, and putting them in various places, I folded the letters and sealed the letters, and of course I told Miss Hall I would post them myself. Miss Hall finished the work and started to leave when the 12 o'clock whistle blew, she left the office and returned it look-

ed to me, almost immediately, calling into my office that she had forgotten something, and then she left for good. Then I started in, we transcribed, first we enter all orders into the house order book (Defendant's Exhibit 12), all these orders which Miss Hall had acknowledged, I entered in that book, and I will explain that matter in detail. There has been some question raised about this, but I believe I can make it very clear. Here is an order from Beutall Brothers Company (Defendant's Exhibit 21); the very first operation on an order that is received by the Pencil Factory at Forsyth Street in my office is the acknowledgement; that is the first operation, because the acknowledgement is the specific second part of the contract, the first part is when they send us the order; that is the party of the first part, and the party of the second part is when we write them an acknowledgement card and agree to fill the order, and enter the order which they send us, and so necessarily, to satisfy our customers, it must be the very first thing that is done, and is the first thing. The acknowledgement stamp, which you have already seen here below, shows first two things; first, who acknowledges the order, and second the date it was received in the office on Forsyth Street. Here is one from Butell Brothers (Defendant's Exhibit 21); that bears the date April 23rd, up at the top; that was the date when Beutell Brothers in Dubuque, Ia., had that letter typewritten, we didn't know when they mailed it, but that is the day it was written, it was received at the General Manager's office, might have been received Friday, on Friday April 25th, after I had gotten the mail that day there, and remained there until April 26th, when I went over and got the mail again. Here is one from John Laurie & Sons, (Defendant's Ex. 23), and here is one I think Mr. Dorsey did some questioning about, because

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of the fact that up here at the top was 4-22, this order was written in pencil, of course it is written in pencil; this is an order from F. W. Woolworth & Company (Deft's Ex. 17), that is a Five & Ten Cent syndicate, as you know, probably the largest in the world, that has over 700 stores, and these stores would be so bulky for one office to handle that the 700 stores are divided into different groups or provinces, and in charge of each group there is a certain office; for instance, there is one at Toronto, for the Canadian stores; one in Buffalo, one in Boston, one in New York, there is one at Wilkesbarre, one at St. Louis, one at Chicago, one at San Francisco. Now, this order, by looking at it, I can tell, because I have had reason to look into and know the system of orders used by this syndicate, and I most assuredly have to know it, you notice Chicago, Ill., 4/22, down here, and also store No. 185, the Woolworth Company 347 (Deft's Ex. 17), here again is DeKalb, Ill. In other words, DeKalb, Ill., is in the jurisdiction of the Chicago office. These blanks are distributed among these various five and ten cent stores, and the manager of one store, when he wants to order goods, he finds his stock is getting a little low, he makes that out and sends his order in to the Chicago Office; at the Chicago office, the buyer looks over it, and sees that the Manager has carefully and economically ordered the goods, and then you will notice that little stamp punched through; you see up there that says: "Valid, 4-23," in other words, of course, we couldn't have put that on there at our office, but the validation stamp, with 4-23, the date of it, shows it took a day to travel from DeKalb, Ill., to Chicago, Ill., and that stamp shows the validation of the order on that date by the head office, and that order is then forwarded by the head office to us. Now, this order is usually made out by

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the Manager or the Clerk of the Manager or some one in that F. W. Woolworth store. Here is one from Wilkesbarre itself (Deft's. Ex. 18), that is from the head office itself. Here is one from St. Joseph, Mo. (Deft's Ex. 14) viz. St. Louis, that bears the validation stamp of the St. Louis head office. You gentlemen understand these people are great big people, a great big syndicate, and they have to do their clerical work according to a system that is correct. Now, then, that was the first operation on these orders after we separated them from the other mail, and we hand that on to our Superintendent. I am showing you about the acknowledgement stamp, because it is important first because it shows the acknowledgment of the order, and who acknowledged it, and secondly shows the date on which the orders were received at my office. To the best of my recollection, these acknowledgement cards were given to the office boy to post, after Miss Hall had made them out.

Now, in reference to the work that I did on these orders, starting here with order 7187 (Deft's. Ex. 14-24), and continuing through 7197, that is not such an easy job as you would have been led to believe; in the first place, next to the serial number, there is a series of initials, and those initials stand for the salesman who is credited with the order; in other words, if a man at the end of the year wants to get certain commissions on orders that come in, we have to very carefully look over those orders to see to whom or to which salesman or to which commission house or which distributing agent that order is credited, so therefore it takes a good deal of judgment and knowledge to know just to which salesman to credit, and sometimes, I can't say that it was incorrect that morning, but it might have been, sometimes I have to go through a world of papers to find just to whom a certain order is to be credited.

Then I enter in the various orders here, too, the next column

280

000621

shows to whom the goods are to be shipped; of course that is not very difficult to do, that is just a mere copy. The store numbers are put down in case the stores have numbers, and then one must look over the order; I notice that one of the orders is one to R. E. Kendall (Deft's Ex. 24) at Plum St., Cincinnati, O., calling for a special, and that has to be noted in this column here, you will notice regular or special, notice here the word special out here opposite R. E. Kendall, ~~that thing has to be very carefully noted also.~~ Now, in this column is the order number, and that order number is the customer's order number, to which we have to refer always when we ship that order. Now, in these cases like on these Woolworth orders (Deft's Ex. 17), when there is no order number, we put down the date with the month, so in that way that give it, 4-22, that was the date the order was made out, so we can absolutely refer to it; in this column is the shipping point and the date we are going to ship it, and in this column represents the date on which the order was received, and the month, which is April 28th, according to the acknowledgment, corresponding to the acknowledgment stamp. Now, after that work, after the order was acknowledged and entered in here, the next step is the filling in on the proper place on this sheet which has already been tendered and identified. Now, the work done by me on that day right here, that was Saturday, Saturday is the second day of the fiscal week, Friday, Saturday, Sunday, Monday, Tuesday, Wednesday and Thursday, Saturday is the second day, and you will notice, gentlemen, there are only two entries there, ~~the work not having been done since I left the factory,~~ there are only two ^{entries} ~~entries~~ there, and the last entry is April 26th, which was Saturday. Now then, the information on this sheet is as follows: I go through the

000621

orders and find out the number of gross of pencils which our customers order which fall in certain price groups, that is, to find the number of gross of pencils for which the Pencil Factory gets 60 cents a gross, and I put them down under the first column, the second under the column RI, which means rubber inserted, and for which we get an average price of 80 cents, I go through the same thing and put the figures all out, in this case, it was 102; then we have a price group on which we get an average of \$1.25, and it covers a range in price from \$1.00 per gross to \$1.40; there were 116 gross of such pencils ordered with these orders which were received that morning. The next price group are those on which we figure on an average price of \$1.75 a gross, and falling within those limits of \$1.50 to \$1.95 inclusive; in this case, there were 34 1/2 gross; then there is a group between \$2.00 and \$2.95, averaging \$2.50, and there was 100 1/2 gross that day, then \$3.00 and over, which we always figure at just \$3.00, we have goods that we get \$3.25 for, and some that we get \$3.50 for, but we figure them all at \$3.00, so it is a conservative estimate. The reason this is done is this; in the pencil business, just like in all manufacturing businesses, that is manufacturing an article that has to be turned out in large quantities, it behooves the sales department to sell as much of your high priced goods as possible, and as few of your cheap goods, and therefore, if you know how many of the cheap goods and how many of the better grade of goods you are selling, it serves as a barometer on the class of goods that is being sold. You can see that this job takes quite a little figuring and quite a little judgment.

After finishing that work, I went on to the transcription of these orders to these requisitions, and notwithstanding an answer that has been made, I wrote those requisitions myself.

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(Deft's Exs. 25-35). That is my hand-writing and you can read every one of them through (Deft's Exs. 25-35). Here is one, F. W. Wolworth, I wrote that one, and another one F. W. Wolworth, I wrote that one, and another one F. W. Wolworth. Here is one 5 and 10 cent store, Sault Ste Marie (Deft's Ex. 31), I wrote that one, and here is F. W. Wolworth, DeKalb, Illinois, and Logansport, Indiana (Deft's Ex. 27). That is all my hand-writing, excepting the amounts that are placed down here under the dates when the shipment of these orders were made, which is in the hand-writing of my assistant, Mr. Schiff. This part, the amount, date, numbers, address, salesman, date April 26th, and the order number, taking the date in lieu of the order number, as I explained previously, that is all my hand-writing, -everything except that amount there and the subsequent date, that is in my hand-writing and the work on all of those was done on the morning of April 26th.

~~Miss Hall left my office on her way home at this time,~~ and to the best of my information there were in the building Arthur White and Harry Denham and Arthur White's wife on the top floor. To the best of my knowledge, it must have been from ten to fifteen minutes after Miss Hall left my office, when this little girl, whom I afterwards found to be Mary Phagan, entered my office and asked for her pay envelope. I asked for her number and she told me; I went to the cash box and took her envelope out and handed it to her, identifying the envelope by the number. She left my office and apparently had gotten as far as the door from my office leading to the outer office, when she evidently stopped and asked me if the metal had arrived, and I told her, no. She continued on her way out and I heard the sound of her foot steps as she went away. It was a few moments after she asked me this question that I had an impression of a female voice saying something; I don't know

000627

which way it came from; just passed away and I had that impression. This little girl had evidently worked in the metal department by her question and had been laid off owing to the fact that some metal that had been ordered had not arrived at the factory; hence, her question. I only recognized this little girl from having seen her around the plant and did not know her name, simply identifying her envelope from her having called her number to me.

She had left the plant hardly five minutes when Lemmie Quinn, the foreman of the plant, came in and told me that I could not keep him away from the factory, even though it was a holiday; at which I smiled and kept on working. He first asked me if Mr. Schiff had come down and I told him he had not and he turned around and left. I continued work until I finished this work and these requisitions and I looked at my watch and noticed that it was a quarter to one. I called my home up on the telephone, for I knew that my wife and my mother-in-law were going to the matinee and I wanted to know when they would have lunch. I got my house and Minola answered the phone and she answered me back that they would have lunch immediately and for me to come right on home. I then gathered my papers together and went up stairs to see the boys on the top floor. This must have been, since I had just looked at my watch, 10 minutes to one. I noticed in the evidence of one of the witnesses, Mrs. Arthur White, she states it was 12:35 that she passed by and saw me.. That is possibly true; I have no recollection about it; perhaps her recollection is better than mine; I have no remembrance of it; however, I expect that is so. When I arrived up stairs I saw Arthur White and Harry Denham who had been working up there and Mr. White's wife. I asked them if they were busy and they said they had enough work to

000621

keep them several hours. I noticed that they had laid out some work and I had to see what work they had done and were going to do. I asked Mr. White's wife if she was going or would stay there as I would be obliged to lock up the factory, and Mrs. White said, No, she would go then. I went down and gathered up my papers and locked my desk and went around and washed my hands and put on my hat and coat and locked the inner door to my office and locked the doors to the street and started to go home.

Now, gentlemen, to the best of my recollection from the time the whistle blew for twelve o'clock until after a quarter to one when I went up stairs and spoke to Arthur White and Harry Denham, to the best of my recollection, I did not stir out of the inner office; but it is possible that in order to answer a call of nature or to urinate I may have gone to the toilet. Those are things that a man does unconsciously and can not tell how many times nor when he does it. Now, sitting in my office at my desk, it is impossible for me to see out into the outer hall when the safe door is open, as it was that morning, and not only is it impossible for me to see out, but it is impossible for people to see in and see me there.

I continued on up Forsyth to Alabama and down Alabama to Whitshall where I waited a few minutes for a car, and after a few minutes a Georgia Ave. car came along; I took it and arrived home at about 1:20. When I arrived at home, I found that my wife and my mother-in-law were eating their dinner, and my father-in-law had just sat down and started his dinner. I sat down to dinner and before I had taken anything, I turned in my chair to the telephone, which is right behind me and called

000621

I had to do at the factory, I would be unable to go with him, he having invited me to go with him out to the ballgame. I succeeded in getting his residence and his cook answered the phone and told me that Mr. Ursenbach had not come back home. I told her to give him a message for me, that I would be unable to go with him. I turned around and continued eating my lunch, and after a few minutes my wife and mother-in-law finished their dinner and left and told me good bye. My father in law and myself continued eating our dinner, Minola McKnight serving us. After finishing dinner, my father-in-law said he would go out in the back yard to look after his chickens and I lighted a cigarette and laid down. After a few minutes I got up and walked up Georgia Avenue to get a car. I missed the ten minutes to two car and I looked up and saw in front of Mr. Wolfscimer's residence, Mrs. Mickle, an aunt of my wife who lives in Athens, and there were several ladies there and I went up there to see them and after a few minutes Mrs. Wolfshimer came out of the house and I waited there until I saw that I could catch the car. I got on the car and talked to Mr. Loeb on the way to town. The car got to a point about the intersection of Washington street and Hunter street and the fire engine house and there was a couple of cars stalled up ahead of us, the cars were waiting there to see the memorial parade; they were all banked up. After it stood there a few minutes as I did not want to wait, I told Mr. Loeb that I was going to get out and go on as I had work to do. So I went on down Hunter street, going in the direction of Whitehall and when I got down to the corner of Whitehall and Hunter, the parade had started to come around and I could not get around at all and I had to stay there fifteen or twenty minutes and see the parade.

000627

Then I walked on down Whitehall on the side of Mr. M. Rich & Bros. Store towards Brown & Allens; when I got in front of M. Rich & Bros. store, I stood there between half past 2 and few minutes to 3 o'clock until the parade passed entirely; then I crossed the street and went on down to Jacobs and went in and purchased twenty five cents worth of cigars. I then left the store and went on down Alabama street to Forsyth street and down Forsyth street to the factory. I unlocked the street door and then unlocked the inner door and left it open and went on up stairs to tell the boys that I had come back and wanted to know if they were ready to go, and at that time they were preparing to leave. I went immediately down to my office and opened the safe and my desk and hung up my coat and hat and started to work on the financial report, which I will explain. Mr. Schiff had not come down and there was additional work for me to do.

In a few minutes after I started to work on the financial sheet, which I am going to take up in a few minutes, I heard the bell ring on the time clock outside and Arthur White and Harry Denham came into the office and Arthur White borrowed \$2.00 from me in advance on his wages. I had gotten to work on the financial sheet, figuring it out, when I happened to go out to the lavatory and on returning to the office, the door pointed out directly in front, I noticed Newt Lee, the watchman, coming from towards the head of the stairs, coming towards me. I looked at the clock and told him the night before to come back at 4 o'clock for I expected to go to the baseball game. At that time Newt Lee came along and greeted me and offered me a bannana out of a yellow bag which he carried, which I presume contained bannanas; I declined the bannana and

000621

told him that I had no way of letting him know sooner that I was to be there at work and that I had changed my mind about going to the ball game. I told him that he could go if he wanted to or he could amuse himself in any (way) that he saw fit for an hour and a half, but to be sure and be back by half past six o'clock. He went off down the stair case leading out and I returned to my office. Now, in reference to Newt Lee, the watchman, the first night he came there to watch, I personally took him around the plant, first, second and third floors and into the basement, and told him that he would be required, that it was his duty to go over that entire building every half hour; not only to completely tour the upper four floors but to go down to the basement, and I specially stressed the point that that dust bin along here was one of the most dangerous places for a fire and I wanted him to be sure and go back there every half hour and to be careful how he held his lantern. I told him it was a part of his duty to look after and lock that back door and he fully understood it, and I showed him the cut-off for the electric current and told him in case of fire that ought to be pulled so no fireman coming in would be electrocuted. I explained everything to him in detail and told him he was to make that tour every half hour and stamp it on the time card and that that included the basement of the building.

Now this sheet here (Deft's Ex. 7) is the factory record containing the lists of the pencils in stock and the amount of each and every number; the amount of each and every one of our pencils which we manufacture at the end of any given week. There are no names there. We make the entries on this sheet by the trade notes. Here is a sample case containing the pencils which are manufactured at the Forsyth Street plant. That is just as an explanation of what these figures are.

000625

Well, I expect you have gotten enough of a glance at them for you to know that there are a great many pencils and a great many colors, all sorts and styles; all sorts of tips, all sorts of rubbers, all sorts of stamps--I expect there are 140 pencils in that roll. That shows the variety of goods we manufacture. We not only have certain set numbers that we manufacture, but we will manufacture any pencil to order for any customer who desires a sufficient number of a special pencil, into a grade similar to our own pencil. Now, this pencil sheet when I looked at it about half past eleven or thereabouts on Saturday morning, was incomplete. It had the entry for Thursday, April 24th, omitted. Mr. Schiff had entered the production for April 18th, 19th, 22nd and 23rd, (Deft's Ex. 7), but he had omitted the entry for the 24th, and the 24th not being there, of course it was not totaled or headed, so it became necessary to look in this bunch of daily reports which was handed in every day by the packing forelady, sort out the various pencils noted on there, and place them in their proper places. Before proceeding further on that, I want to call your attention to the fact that we use this sheet for two weeks. You notice two weeks ending down there April 27th, April 17th, and one ending the week later, April 24th, (Deft's Ex. 7). Mr. Schiff, I notice, put April 17th at the top and the date corresponds to the entries here on the side; these are the dates alongside of each entry. Now, where we have any special pencil, as a general rule--for instance, take two 10-x special up there; we manufacture Two 10-X special for the Cadillac Motor Car Company. Now, there is a 660-X pencil; that 660-X pencil we call Panama, but in this entry it is called Cracker-Jack. Now, here is another 660-X special, ours being Panama and this the Universal 660-X special. In other words

000630

the name of the customer, if he wants business in a sufficient quantity. Well, I had to go through this report for Thursday, handed in by Miss Flowers, the forelady of the packing department, as she said, on Friday; I had to go through it and make the entries. Now, after I made the entries, I had to total each number for itself; that is, the number of 10-X, 20-X, etc. Now, I notice that both of the expert accountants who got on the stand, pointed out two errors. While those errors are trivial, yet there is enough of human pride in me to explain that these errors were not mine. Those errors, one of one and a half gross and one of one gross, in totalling up, these totals here on the 18th and 19th (Deft's Ex. 7)--those entries were made by Mr. Schiff. I don't expect he meant to make an error, but they happen to be in his hand-writing. Those totals were already down there for the various days when I got the sheet and I always take them as correct without any checking of his figures. The only figures that I check are my own figures. I add my correct figures to his figures and of course, not having checked the figures, I had to assume he entered it correctly, so I would not have known it. As I say, my usual method is to take his figures as correct per se. Now, after I entered them in the total, the next thing I did was to make out the job sheet, the job or throw-outs. Now in regard to these jobs, if I recall it correctly, was the only error that the expert accountant ^{found} in my work on the financial sheet for that day, but it really was not an error, as I will show you. He didn't know my method of doing that, and therefore, he could not know the error. When I explain to you fully the method in which I arrive at these figures you also will see they are not in error. Now among the packing reports that are handed in to the office just like Miss Eula

000631

May handed this in from the packing room proper, there is another room where pencils are packed, viz: the department under the foreladyship of Miss Fannie Atherton, head of the job department. The jobs are our seconds or throw-outs for which we get less money, of course, than for the first. You see that Fannie A (Deft's Ex. 4b); that is Fannie Atherton. That is the job department. Now, I took each of those job sheets and separated them from the rest of those sheets, finding out how many jobs of the various kinds were packed that week. Now, this sheet shows that there (were) 12 different kinds of jobs packed that day. Each of them, you will notice has a different price. That is the number of jobs 0-95, or the number of job 114; that is the number of the job; not the amount, but the number by which it is sold. Out here you see the amount of that job which was packed; 180 gross, one gross, six gross, 24 gross, etc. Then you will find the actual price we receive for each. Then I make the extensions and find the number of gross of pencils, 180 gross at 40 cents, of course, is \$72.00. In other words, there is the actual number of jobs packed that day, the price we actually got for them, and the extensions are accurate and the totals are correct; the total amount of gross is totaled correctly, the total gross packed and the total amount of the value of those gross are the two figures that are put on that financial report, 791 gross jobs, \$396.75, being absolutely correct, but in getting the average price, you notice 50.1 cents down below here, I just worked it approximately, because nobody cares if it costs so small a fraction--the average price of these jobs, 50.1 cents, and six hundredths--that six hundredths was so small I couldn't handle it, so I stopped at the first decimal. Now, by arriving at the total number of gross and the total value of

000637

pencils, which are the two figures really important, I divided one by the other. I also used, in getting up the data for the financial sheet, by the way, one of the most important sheets is this very little sheet here (Deft's Ex. 4c). It looks very small, but the work connected with it is very large. Now, some of the items that appear on here are gotten from the reports which are handed in by the various forewomen. Now you saw on the stand this morning Mr. Godfrey Winekauf, the Superintendent of the lead plant; there is the report (Deft's Ex. 4c) of the amount of lead delivered that week, two pages of it; the different kinds of lead, No. 10 lead, No. 940, No. 2 and No. 930, and so on. Now here is a pencil with a little rubber stuck on the end; we only put six inches of lead in that, and stick rubber in the rest. Now here is the report of L. A. Quinn, foreman of the tipping plant (Deft's Ex. 4d).

He reports on this the amount of work of the various machines; that is, the large eyelet machine, the small eyelet machine and the other machines. Then he notes the amounts of the various tips used that he had made that week. Now, we have, I expect, 22 different kinds of tips, and one of them is a re-tip, and we never count a re-tip as a production. Now, this was made out for the week ending April 24th by Mr. Irby, the shipping clerk; that is, the amount of gross of pencils that he ships day by day. There were shipped 266 gross the first day, which was Friday in this case, Friday the 18th of April, 562 gross the 2nd day, which was Saturday, a half day, and the 19th day of April; 784 gross on Monday, which was April 21st; 1232 gross (that was an exceptional day) were shipped on Tuesday April 22nd; 572 gross shipped on Wednesday April 23rd, and

of 4374 gross. Now, there is another little slip of paper (Deft's Ex. 4a) here that requires one of the most complicated calculations of this entire financial, and I will explain it. It shows the repack, and I notice an error on it here, it says here 4-17, when it ought to be 4-18; in other words, it goes from 4-17 through 4-24. That repack is gotten up by Miss Eula May; you will notice it is O.K. 'dbby her. Miss Eula May Flowers, the forelady, packed that; that is the amount of pencils used in our assortment boxes or display boxes. That is one of the tricks of the trade, when we have some slow mover, some pencil that doesn't move very fast, we take something that is fancy and put some new bright looking pencils with them, with these slow movers. That is a trick that all manufacturers use, and in packing these assortment boxes, which are packed under the direction of Miss Flowers, we send into the shipping room and get some pencils which have already been packed, pencils that have been on the shelf a year for all we know, and bring them in and unpack them and repack them in the display box. Therefore, it is very necessary in figuring out the financial sheet to notice in detail the amount of goods packed and just how many of those pencils had already been figured on some past financial report. We don't want to record it twice, or else our totals will be incorrect; Therefore this little slip (Deft's Ex. 4a) showing the amount of goods which were repacked is very necessary. That was figured by me, and was figured by me on that Saturday afternoon, April 22nd. There were 18 gross of 35-X pencils selling for \$1.25; 18 gross for \$22.50. It shows right here, I figured that out. That is my writing right down there. Eighteen gross 35-X, \$1.25, \$22.50; 10 gross of 930-X figuring at \$25.00;

000631

That added up, as you will see, to \$70.00. In other words, there were 40 gross of pencils, 36 gross of which sell in our medium price goods; 86 gross 35-X; 10 gross 930-X, \$2.50, that is a high priced goods. Therefore, the re-pack for that week was 36 gross medium priced goods and 10 gross of high price goods. I will show you now where the \$70.00 is and where the 36 gross is, and where the 10 gross figured in the financial sheet (Deft's Ex 7a). There is a little sheet suck up here in the corner attached to the record--the factory record of pencils manufactured during that week. That shows the production, divided into the following classes; cheap goods, the very cheapest we make, outside of jobs, those we figure at 60 cents a gross. Then there is the rubber insert, these we figure at 85 cents a gross, and then the job and then the medium; the medium being all goods up to a certain grade that contains the cheap lead, and the good being all those that contain a better class of lead. In this case, Mr. Schiff had entered it up to and through Wednesday, and had failed to enter Thursday, and I had to enter Thursday, and to figure it. This sheet shows the total of the three classes of goods packed from day to day. Now, I have had very few clerks at Forsyth Street, or anywhere else, for that matter, who could make out this sheet (Deft's Ex. 2) successfully and accurately. It involves a great deal of work and one has to exercise exceptional care and accuracy in making it out. You notice that the gross production here is 2765 1/2. That gives the net production. The gross production is nothing more than the addition, the total addition, the proven addition of these sheets containing the pencils packed. This other little sheet behind here represents the pencils packed the week of April

now, this little sheet (Deft's

Ex. 7a) I had to work on, showing the pencils that were re-packed, going into the display boxes, and the numbers, and subtracted that from the total amount 46 from 2765 1/2, which leaves 2719 1/2; in other words, I just deducted the amount that had been taken out of the stock room and repacked from the total amount that was stated to be packed, showing the amount of repacked goods. Now all I had to do was to copy that off, it had been figured once. The value of the repack was \$70.00; that was mere copying. Now, the rubber insert entries, I got those that morning, the number of pencils packed during the week ending April 24th; that is Thursday, April 24th; that insert rubber is a rubber stuck directly into wood with a metal tip or ferret to hold it in. I have to go through all of this date, that being an awfully tedious job, not a hard job, but very tedious; it eats up time. I had to go through each one of these, and not only have to see the number, but I have to know whether it is rubber insert or what it is, and then I put that down on a piece of scratch paper, and place it down here, in this case it was 720 gross. Then the rubber tipping, that means tipped with rubber; that is the rubber that is used on the medium priced pencils that have the medium prices, we ship with the cheap shipping. I had to go through this operation again; a tedious job, and it eats up time it is not hard, but it is tedious. I had to go through that again, to find out the amount of tip rubber that was used on this amount of pencils. Then I had to go through the good pencils. Now, it has been insinuated that some of these items, especially this item, if I remember correctly--that when I have gotten two of the items, I can add it all up and subtract from the total to get the third by deduction, but that is not so. Of the pencils that still remain unaccounted for, there

are many pencils that don't take rubber at all. There are jobs that don't take rubber on them, plain common pencils, going pencils that don't have rubber on them at all, and I have to go through all of that operation, that tedious operation again that eats up so much time. Then there is the lead of the various kinds that we use; there is good lead and cheap lead, the large lead and the thick or carbon lead, and the copying lead. That same operation has to be gone through again. Now this sheet (exhibiting) (Deft's Ex. 3) is where the expert accountant said I made a mistake. I had to go through with each of these pencils to see if they were cheap rubber or if they were good lead or the copying lead. So I had to go through this same operation and re-add them to see that the addition is correct before I can arrive at the proper figure. The same way to find the good lead and the cheap lead, the large lead and the copying lead; that operation had to be gone through in detail with each and every one of those, and the same with each of the boxes, and that is a tough job. Some of the pencils are packed in one gross boxes and some in half gross boxes, and, as I say, we use a display box, and there are pencils that are put in individual boxes, and we have to go through carefully to see the pencils that have been packed for the whole week, and it is a very tedious job. Now in these boxes, there is another calculation involved, and then I have to find the assortment boxes, but that is easily gotten. Then I have to find out whether they are half gross boxes or one gross boxes, and then reduce them to the basis of boxes that cost us two cents apiece; reduce them to the basis of the ordinary box that we paid two cents a box. After finding out all the boxes, then I have to reduce that to

000637

some common factor, so I can make the multiplication in figuring out the cost at two cents. That involves quite a mathematical manipulation. Then I come to the skeleton. Skeletons are no more than just a trade name. They are just little cardboard tiers to keep one pencil away from the other, that is all a skeleton is. I have to go through and find out which pencils are skeletons. If it is a cheap pencil, they are just tied up with a cord, and there are pencils in a bunch, and there are pencils that we don't use the skeleton with. That must all be gone through and gotten correctly, or it will be of no worth. Then comes the tip delivery, the goods and the sheet delivery, which is gotten from this report from Mr. Lemmie Quinn that I showed you before. Then there is another entry on this sheet of the tips used and I can give you a clear explanation of the manner that I arrive at that. You can't use tips when you don't have some rubber stuck in it, so I just had to go through the rubber used to find that. Then we have what we call ends; there are a few gross of them there. Then the wrappers. Pencils that are packed in the individual one dozen cartoons don't take wrappers; they are in a box. Pencils that are packed in the display boxes don't take a wrapper, they just stick up in a hole by themselves. The cheap pencils are tied with a cord and they don't take any wrapper, so the same operation, the same tedious operation had to be gone through with that to get at the number of wrappers, and then the different number of gross and the number of cartoon boxes used in the same way. On the right-hand side of this sheet you notice the deliveries (Deft's Ex. 3). There is the lead delivery from the Bell Street plant and the Forsyth Street plant. This doesn't mean the amount of lead used in the pencils packed for this week only, but it shows the amount of

000631

our lead plant delivery, for information. Then the slat delivery, that is not worked out simply because that is Mr. Schiff's duty to work that out and that it is a very tedious and long job and when I started in to do that I couldn't find the sheet showing the different deliveries of slats from the mill, so I let that go, intending to put that in on Monday, but on Monday following I was at the police station.

I took out from this job (Deft's Ex. 4b) sheet the correct amount of gross packed--791 as figured there--correct value \$396.75, as shown on this sheet, and the average is that one, that I didn't carry out to two decimal places; I didn't carry it to but one. Then from the payroll book I got the payroll for Forsyth Street and Bell Street, and then as a separate item took out from the payroll book total, separate the machine shop, which that week was \$70.00. The shipments were figured for the week ending April 24th on this sheet, as far as I-- oh, you notice the entry of the 24th; those are those invoices, the first piece of work that I explained to you, sitting up there; I explained from the chair, and couldn't come down here; that's the piece of work, that I explained to you how we did it in triplicate. That's the work that I did that morning, and completed, as I told you, that each of the invoices was wrong, and I had to correct them as I went along, simply because I needed it on the financial ^{sheet}, and there's where I entered it on the sheet as shipments; I needed that so as to make the total; and that's where I entered it--shipments, the 24th, on this sheet during the afternoon \$1245.57, and totalling up up, the pencil factory shipped that week \$5438.²⁸₆₉. Those amounts you see are entered right in there, and the handed in by Mr. Irby, and the value of the shipments are gotten

from this sheet, the last entry on which I had to make.

Then the orders received. The entry of the orders received that day involved absolutely no more work on my part than the mere transfer of the entries. On this big sheet (Deft's Ex. 5) I have here the orders received are in terms of "Total gross" and "Total value," and we need that to compare the amount of shipments with the amount of orders we are receiving to see whether we are shipping more than we are receiving, or receiving more than we are shipping. That amount is given here. Down there it tells you the total amount of dollars and cents of all the orders received, total gross, and the average. The average is important, though it is usually taken over on a separate paper on Friday morning to Mr. Sig Montag so that he knows how sales for the week have come out long before he receives the financial. He don't receive the financial usually until Monday morning, when I go over there.

Now, one of the most intricate operations in the making up of the financial report is the working out of the figures on that pencil sheet, as shown by that torn little old sheet here, that data sheet (Deft's Ex. 3). Now with this in hand, and with that pencil sheet record of pencils packed (Deft's Exhibit 7) the financial report is made out. This sheet (the financial) (Deft's Ex. 2), I may say is the child of my own brain, because I got it up. The first one that ever was made I made out, and the fact that there is a certain blue line here and a certain red line there, and a black line there, and certain printing on it, is due to me, because I got this sheet up myself. On one side you notice "Expense", or two main headings "Expense" "Materials." Together they comprise the expense for the week. On the other side, like the debit

000646

and credit sides of a ledger is the "value", "gross Value" of the goods which have been packed up during a given week. Down here below you will notice "Less repacked." You remember the repacked, that I told you about, the pencils taken out of stock and repacked to make them move better. That value is deducted, so that it won't allow error to enter into this figure. Then we take off 12% down at the bottom. That 12% allows for freight allowances, cash discounts, inside trade discounts, and possibly other allowances, and gives us the net value or the net amount of money for those pencils, which the treasury of the Pencil Company receives in the last analysis.

On the other side is the materials, the cost of materials, that went into the making of those pencils, based on the amounts and kinds of pencils, which of course, as in this instance, comes from the data sheet.

The first item under "expense" items is "Labor," and the labor is divided, as you all know, into the two classes, direct and indirect. The direct labor is that, which goes directly into the making of the pencils themselves, and the indirect constitutes the supervising, shipping, office, clerical help, and so forth. These figures are brought directly from the payroll. The indirect labor, however--as in this case \$155.00--is an empirical figure, a figure, which we have found out by experiment to be the correct figure, and we arbitrarily decide on it, and keep it until such time as we think we ought to change it and then change. The burden that a business has to carry is the fixed charges, the expense that it carries, irrespective of whether it will produce two gross or 200,000 gross, like rent, insurance, light, heat, power, and the sales department.

000641

salesman sells little or big bills; his salary goes on and his expense goes on, Rent, heat, light, power, sales department men, and all that, is figured out, as you could find by looking back, continuously from week to week, and there is no work other than jotting it down to figure in this total..

The repair sundries is also arbitrary at \$150.00. The machine shop, however, is available. It appears alongside of "Investment". "Investment is crossed out, and "Machine shop" written in. There is a reason for that. The time was at the inception of our business when every machine built by us was so much additional added to the value of our plant. In other words, it was like investing more money in it, in the plant, but the time came, when we quit making machines, and then we simply kept them in repair, and we charged that to expense, crossing out "investment" and putting down "Machine Shop" as an expense item.

The material is arrived at on the bases, gross, net. The gross basis is the total amount of pencils packed, as per the packing reports handed in by Miss Eula May Flowers, and the net basis is the total amount, total gross, packed by report of Miss Eula May Flowers less the amount of repacked, of which I have spoken. In this case the gross amount was 2851 gross, net 2830 1/2 gross, the smaller being the net figure. The slats are figured at 22 cents per gross, and that's simply taking the 2830 1/2 gross down to the slat item, and multiplying that by 22 cents, and putting it down to the materials. Then from the figures derived from the packing reports we figure rubbers used, according to the character or grade of the pencil manufactured; 6 1/2 ¢ cheapest, 9 ¢ medium, 14 ¢ high grade. Then comes the tips. The tips

single letter by adding together the amounts of rubber used

in ferrules, the medium rubber, and the better class of rubber. In other words, it's gotten by adding together the rubber at 9 cents a gross, and the rubber at 14 cents a gross, and adding together the total amount of gross used. And you see it says "materials", and it is reckoned at 10 cents; in other words, the materials used in making the tips in that tip plant we figured at 10 cents a gross, and the labor is included in that payroll item up above. Then there is 25 gross of these medium ends.

Then the lead, which is used, is taken from this sheet (Deft's Ex. 4a), multiplying 15 cents for the better lead and 10 cents for the cheaper lead. Then 5 cents a gross has been figured out after months of careful keeping track of what we use to include such materials as shellac, alcohol, lacquer, aniline, waxene, and oils--that's oils used in manufacture, not for lubrication of transmission or machinery. It also includes that ~~hascolene~~ compound, of which we have heard so much. That's included in this 5 cents per gross.

Then comes the boxes at 2 cents a gross, then assortment boxes at an average of 4 cents a gross; then comes wrappers at one cent a gross; that is the number of wrappers used in wrapping up one gross of pencils are worth one cent. Then cartons, boxes, holding one gross of pencils, figured at 28 or 18 cents. Then down below "payroll Bell Street \$173.21. Then show what what was delivered, just a plain copy of what I have on this sheet, I have been looking at the sheet for the week ending April 17th, but it is practically the same way I have here down on the bottom of this financial made out the 26th what's delivered, good and cheap. There is no entry there. You will remember I said I didn't work that out. I put that out there preparatory to working out that Monday

morning before I would take it over. Then it tells tips delivered from Mr. Quinn's report.

Now on the right side you will notice this entry, "Better grades, gross, net." From this small sheet we get total of better grades 710, gross. Then right below it says 700 gross net. There were 710 gross, and on that repacked sheet I called out there 10 gross good goods repacked, therefore the difference of 10 gross. Then we look on down this pencil sheet, cut down each and every one of the items accordingly-- you will notice in some places I marked some items, "142 1/2 2-10-X"--and so on down the sheet, in this case there were 29 or 30 different items, all of which had to have the prices correctly traced down, extensions correctly made, checked, re-checked, added up, and totaled; and checked back, and the re-pack had to be deducted, after which the 12% had to be figured out, and deducted, giving the net value of the production for that week. Then we take the net value of the production that week, and from it take the total amount of expense, and materials used, the expense including labor, rent, lights, insurance, and so forth, and, if this expense is greater than the value of the pencils, which we made that week, then the factory has operated that week at a loss. In this case a deficit above, showing that that week we operated at a loss. The shipments were gotten off down there from this sheet. Those are my initials up on the top.

(Deft's Ex. 11)

Now, besides the making of this large sheet here proper, there is in the making of the financial report three other sheets, (Deft's Ex. 11), that I usually make out. Now one of those little sheets, that are usually made--and I want to call your attention to the fact that I didn't typewrite this, but

900647

filled these figures in; I am no typewriter; I cannot operate a machine; I have two or three dozen of those very now and then typewritten together, and keep them in blank in my desk; I didn't typewrite those on that day, or any other day; I just filled these figures in those blanks--this is the sheet (Defendant's Ex. 11) called the comparison sheet between 1912 and 1913, which is nothing more nor less than taking the vital figures, the vital statistics of one week of 1913, and comparing them with the same week of 1912, to see how we have improved or gone backward every week one year apart. Of course the putting of these down involves going back into the proper week in this folder, and getting that out. However, I noticed the week in 1912 corresponding with the week of April 24th, in 1913, was a week of 45 hours instead of 50 hours.

In addition to that, I make out two condensed financial reports, that is give the main figures. I didn't typewrite this sheet either; as I say, I cannot operate a machine. I just filled in the figures, which have to be picked out from this large financial report, fill them in for the week ending--that does not show the date it was made, but it shows for the week ending April 24th, the production in dollars, the total expenditure in dollars, the result, which in this week, as I wrote in "deficite" in dollars; show the shipments, which in this week were very good, and the orders received, which were gotten from that great big sheet. Those were enough figures for a director or stockholder of the Company to receive, and are practically the only figures he is really interested in. He don't care to hear how much we make of this pencil or that pencil. The only thing he is interested in is dividends, if we are able to give them to him. One of these sheets I always make out and mail to Mr. Oscar Pappenheimer, who was

formerly a member of our Board of Directors, though he is not now. The other sheet I always invariably sent to my uncle, Mr. M. Frank, no matter where he is, who is President of the Company. On this particular Saturday, my uncle had during the week ending April 26th gone to New York, stopping at Hotel McAlpin, preparatory to taking his annual trip abroad for his health, he being a sick feeble old man. When I made out that financial, I really made out two small ones, and I put one in an envelope, addressed it to Mr. Oscar Pappenheimer (Deft's Ex. 45), c/o Southern Furniture Company, Atlanta, Georgia; the other one was put in this envelope (Deft's Ex. 44) which you see right here, and sent to my uncle, Mr. M. Frank together with a letter, which I wrote him, after having finished the financial sheet, the sheet showing the comparison of vital statistics for the same weeks of 1912 and 1913, and after having completed these two small condensed financial reports (Deft's Ex. 42). I wrote that letter to my uncle, and I sent him that report, and also sent a price list, to which I referred in that letter; hence the size of that envelope. I am going to show you one of those price-lists. Its a great big sheet when it is folded up, it is much too large for the ordinary size; hence the reason I used a great big envelope like that. I addressed that letter to my uncle Mr. M. Frank, C/o Hotel McAlpin, Greely Square, New York, N.Y., as has been identified.

This ends practically the work on the financial. After finishing the financial, I wrote these letters, and sealed them, and placed them aside to post. After finishing the financial, I folded this big report up, and put it with the comparison sheet (Deft's Ex. 11) for the week of 1912 and 1913 in a large envelope, addressed it to

Mr. Sig Montag, General Manager of the Pencil Company, and put it under my inkwell, intending to take it over on the morning of Monday following.

I then came to the checking up of the cash on hand and the balancing of the cash book. For some reason or other there are no similar entries in this book after those of that date. That's my handwriting, (Deft's Ex. 40) and I did that work on Saturday afternoon, April 26th, as near as might be between the hours of 5:30 and 5 minutes to 6:00. Now in checking up it didn't take me an hour and a half. I did that in about 25 minutes. In checking up the cash the first thing to do is to open the cash box. We have a little coin bag in there, and there was in cash actually on hand that day about \$30.54; that's all there was. That's all there could have been, and that \$30.54 was to the best of my recollection composed of about three dollars in one-dollar bills, about four or five dollars in quarters and halves, and the balance dimes, nickels, and one-cent pieces. That's some job to count that, not only to count it, but to separate the different denominations, and stack it up into stacks of a dollar. I did that, stacked them up, checked them, and re-checked them, and I took a piece of paper--I haven't that paper--and jotted down the amounts. To that had to be added the amount that was loaned. In this case there was only one loan, that which I loaned to Mr. White that afternoon. That would eventually come back to the cash box. If there had been any errors in the payroll the night previous, I would have had to make it good from the cash-box, and it would have gone under the item of "extra payroll." I don't know whether that occurred this week or not. However, I added up the total cash I actually had on hand then, \$28.54--and that \$2.00 loaned to Mr. White.

000647

it up to \$30.54, the actual amount, which the cash book showed. Now on the left-hand side of this book, the debits for the week between April 21st, which was Monday, previous to April 26th, it being a record simply of the petty cash used by us, showed that we had a balance on hand the Monday morning previous of \$39.85. On April 22nd we drew a check for \$15.00, and on April 24th we drew another one for \$15.00. I mean by that that we would draw a check for \$15.00, and go over to Mr. Sig Montag to sign it; so that during that week all we got from the treasury was \$30.00, and \$39.85 already on hand, made \$69.85, which was the total amount we had to account for. When we spend, of course we credit it. There once was a time, when, as we paid out money, we would write it down on this book. We found it was much better, however, to keep a little voucher book, and let each and every person sign for money they got, and we have not only this record, but this record on the receipt book (Deft's Ex. 40). The first entry on this is 15 cents there--on the 19th of April the National Pencil Company gave 15 cents to Newt Lee for kerosene. Newt Lee's name is there, but he didn't write it. I wrote it; my initials are on it. He was there when he got the money, but I thought he couldn't write, and I signed his name. Whenever I sign anybody's name, my initials are under it. The next item is 75 cents for typewriter rent, next item \$2.00 drayage 24th of April. That is Truman McCreary's receipt--he has a very legible handwriting, and one of the little stamps stamped on there. The next item is for cases; some negro signed his name down there. So on throughout the book, cases, express, drayage, postage, parcels post, etc. Now, after counting the money, finding how much actual cash there was in the cash box, and the little voucher book, and

000641

lump the different items that were all alike together (Deft's Ex. 10). This sheet has been identified and explained, and you notice that there were four items of drayage grouped together, the total being \$6.70. I just extend that over to the right there \$6.70. Then I don't have to put drayage down in this book four times; just make one entry of drayage for the four times we paid drayage together, which gives the same total, and makes the book look a great deal neater. So on throughout, five items of cases, two items of postage, two items of parcels post, one item of two weeks' rent on an extra typewriter, 45 cents for supplies for Mr. Schneegas' department, foreman on the third floor, 85 cents for the payment of a very small bill to King Hardware Company, \$11.50 to a tinsmith for a small job he had done, 5 cents for thread, and ten cents for carfare one item. Then this young man, Harold Wright, of whom I spoke, omitted from the payroll, I added this up, and that was \$39.31, and transferred it from here to there. I then made the balance in the usual way, checking it against the money on hand, that I had in the cash box that night, and after checking and re-checking it, and finding no money missing from any source that we could trace, found that it was \$4.34 short of the cash box, which was due to shortages in payroll in the past three months.

I finished this work that I have just outlined at about five minutes to six, and I proceeded to take out the clock strips from the clock which were used that day and replace them. I won't show you these slips, but the slips that I put in that night were stamped with a blue ink, with a rubber dating stamp, "April 28th," at the bottom, opposite the word "date." (Deft's Ex. 1), Now in reference to these time slips

000646

which was put into the clocks that night, --Saturday night, no one was coming down to the factory on Sunday, as far as I knew, or as far as custom was, to put the slips into the clocks and therefore, we had to put the slips into the clock dated with the date on which the help were coming into the factory to go about their regular duties and register on the Monday following, which, in this case, was April 28th. Now, on one of these slips, Newt Lee would register his punches Saturday night, and on Sunday night he would register his punches on the other. His punches on Monday night would be registered on two new slips that would be put into clock on Monday night. As I was putting these time slips into the clock, as mentioned, I saw Newt Lee coming up the stairs, and looking at the clocks, it was as near as may be six o'clock,--looking straight at the clock--; I finished putting the slip in and went back to wash up, and as I was washing, I heard Newt Lee ^{ring} ~~ring~~ the bell on the clock when he registered his first punch for the night, and he went down stairs to the front door to await my departure; after washing, I went down stairs,--I put on my hat and coat--got my hat and top coat and went down stairs to the front door. As I opened the front door, I saw outside on the street, on the street side of the door, Newt Lee in conversation with Mr. J. M. Gantt, a man that I had let go from the office two weeks previous. They seemed to be in discussion, and Newt Lee told me that Mr. Gantt wanted to go back up into the factory, and he had refused him admission, because his instructions were for no one to go back into the factory after he went out, unless he got contrary instructions from Mr. Darley or myself. I spoke to Mr. Gantt, and asked him what he wanted, he said he had a couple of pairs of shoes, black pair and tan pair, in the shipping room. I told Newt

Lee it would be all right to pass Gantt in, and Gantt went in, Newt Lee closed the door, locking it after him,--I heard the bolt turn in the door. I then walked up Forsyth Street to Alabama, down Alabama to Broad Street, where I posted the two letters, one to my uncle, Mr. M. Frank and one to Mr. Pappenheimer, a few minutes after six, and continued on my way down to Jacobs Whitehall and Alabama Street store, where I went in and got a drink at the soda fount, and bought my wife a box of candy. I then caught the Georgia Avenue car and arrived home about 6:25. I sat looking at the paper until about 6:30 when I called up at the factory to find out if Mr. Gantt had left. I called up at 6:30 because I expected Newt Lee would be punching the clock on the half hour and would be near enough to the telephone to hear it and answer it at that time. I couldn't get Newt Lee then, so I sat in the hall reading until seven o'clock, when I again called the factory; this time I was successful in getting Newt Lee and asked him if Mr. Gantt had gone again, he says, "Yes," I asked if everything else was all right at the factory; it was, and then I hung up. I sat down and had supper, and after supper, I phoned over to my brother in law, Mr. Ursenback, to find out if he would be at home that evening, I desired to call on him, but he said he had another engagement, so I decided to stay home, and I did stay home reading either a newspaper or the Metropolitan Magazine that night. About eight o'clock I saw Minola pass out on her way home. That evening, my parents in law, Mr. and Mrs. Emil Selig, had company, and among those present were Mr. and Mrs. Morris Goldstein, Mr. and Mrs. M. Marcus, Mrs. A. E. Marcus and Mrs. Ike Strauss; Mr. Ike Strauss came in much later, something after ten o'clock. I believe I sat reading in the hall until about a quarter to ten, when I

lighted the gas water heater preparatory to taking a bath, and then continued reading in the hall; at 10:30, I turned out the gas, went into the dining room, bade them all good-night, and went upstairs to take my bath; a few minutes later, my wife followed me upstairs. (At this point the jury retired for a short intermission.) I believe I was taking a bath when you went out,--on Saturday night; and after finishing my bath, I laid out my linen to be used next day, my wife changed the buttons from my old shirt to the shirt I was to wear the following morning, and I retired about eleven o'clock. The next day, Sunday, April 27th, I was awakened at something before seven o'clock, by the telephone ringing. I got out of bed,--was tight asleep, it awaked me,--but I got out of bed, put on a bath robe and went down to answer the telephone, and a man's voice spoke to me over the phone and said--I afterwards found out this man that spoke to me was City Detective Starnes-- said "Is this Mr. Frank, superintendent of the National Pencil Company?" I says, "Yes, sir," he says, "I want you to come down to the factory right away," I says, "What's the trouble, has there been a fire?" He says, "No, a tragedy, I want you to come down right away;" I says, "All right," he says, "I'll send an automobile for you," I says, "All right," and hung up and went upstairs to dress. I was in the midst of dressing to go with the people who should come for me in the automobile, when the automobile drove up, the bell rang and my wife went down stairs to answer the door. She had on,--just had a night dress with a robe over it. I followed my wife,--I wasn't completely dressed at that time,--didn't have my trousers or shirt on, and as soon as I could get together,--get my trousers and shirt on,--I went down stairs--followed my

000652

and the man who I afterwards found out was detective Black, hung his head and didn't say anything. Now, at this point, these two witnesses, Mr. Rogers and Mr. Black differ with me on the place where the conversation occurred,--I say, to the best of my recollection, it occurred right there in the house in front of my wife; they say it occurred just as I left the house, in the automobile; but be that as it may, this is the conversation: They asked me did I know Mary Phagan, I told them I didn't, they then said to me, "didn't a little girl with long hair hanging down her back come up to your office yesterday sometime for her money,--a little girl who works in the tipping plant?" I says, "Yes, I do remember such a girl coming up to my office, that worked in the tipping room, but I didn't know her name was Mary Phagan." "Well, we want you to come down right away with us to the factory;" and I finished dressing; and as they had said they would bring me right away back, I didn't have breakfast, but went right on with them in the automobile, made the trip to the undertaking establishment very quickly--I mean, they made the trip down town very quickly, and stopped at the corner of Mitchell and Pryor Streets, told me they were going to take me to the undertaker's first, that they wanted me to see the body and see if I could identify the little girl. I went with them to the undertaking establishment, and one of the two men asked the attendant to show us the way into where the body was, and the attendant went down a long dark passageway with Mr. Rogers following, then I came, and Black brought up the rear; we walked down this long passageway until we got to a place that was apparently the door to a small room,--very dark in there, the attendant went in and suddenly switched on the electric

000655

light, and I saw the body of the little girl. Mr. Rogers walked in the room and stood to my right, inside of the room, I stood right in the door, leaning up against the right facing of the door, and Mr. Black was to the left, leaning on the left facing, but a little to my rear, and the attendant, whose name I have since learned was Mr. Chessling, was on the opposite side of the little cooling table to where I stood-- in other words, the table was between him and me; he removed the sheet which was covering the body, and took the head in his hands, turned it over, put his finger exactly where the wound in the left side back of the head was located,--put his finger right on it; I noticed the hands and arms of the little girl were very dirty,--blue and ground with dirt and cinders, the nostrils and mouth--the mouth being open--nostrils and mouth just full of saw-dust and swollen, and there was a deep scratch over the left eye on the forehead; about the neck, there was twine,--a piece of cord similar to that which is used at the pencil factory and also a piece of white rag. After looking at the body, I identified that lit tle girl as the one that had been up shortly after noon the day previous and got her money from me. We then left the undertaking establishment, got in the automobile and rode over to the pencil factory. Just as we arrived opposite the pencil factory, I saw Mr. Darley going into the front door of the pencil factory with another man, whose name I didn't know; we went up to the second floor, the office floor, I went into the innter office, hung up my hat, and in the inner office, I saw the night watchman, Newb Lee, in the custody of an officer, who I think was Detective Starnes,--the man who had phoned me. I then unlocked the safe and took out the payroll book and found that

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work in the metal plant, and that she was due to draw \$1.20, the pay-roll book showed that, and as the detective had told me that someone had identified the body of that little girl as that of Mary Phagan, there could be no question but what it was one and the same girl. The detectives told me then they wanted to take me down in the basement and show me exactly where the girl's body was found, and the other paraphernalia that they found strewed about; and I went to the elevator box,--the switch box, so that I could turn on the current, and found it open. In reference to that switch box being open or shut, it was open on that occasion, however,--I had given instructions to the factory to keep it open, and those instructions were given because a member of the fire department had gone through all that part of the city, and the National Pencil Company, among others, and told us that no switch box, no box in which an electric switch was situated, could be locked up, but had to be open, so it could be easily accessible in case of fire, so they wouldn't run any risk of electrocuting anybody, or if they wanted to move quickly, they could throw it on and start the elevator,--you couldn't lock it up, the firemen wouldn't know where the key was. However I turned on the switch, started the motor, which runs the elevator, going, then Mr. Darley and half dozen more of us and the detectives got on the elevator; I got on the elevator and I started to pull the rope to start the elevator to going, and it seemed to be caught, and I couldn't move it, I couldn't move it with a straight pull, and couldn't get it loose, so I jumped out, we all got off, and I asked Mr. Darley to try his hand,--he's a great deal larger man and a great deal stronger man than I was,--so he was successful in getting it loose--it

seemed like the chain which runs down in the basement had slipped a cog and gotten out of gear and needed somebody to force it back; however, Mr. Darley was successful in getting it loose, and it started up, and I got on and the detectives got on and I caught hold of the rope and it worked all right.

In the basement, the officers showed us just about where the body was found, just beyond the partition of the Clark Woodenware Company, and in behind the door to the dust bin, they showed us where they found the hat and slipper on the trash pile, and they showed us where the back door, where the door to the rear was opened about 18 inches. After looking about the basement, we all went back upstairs and Mr. Darley and myself got some cords and some nails and hammer and went down the basement again to lock up the back door, so that we could seal the factory from the back, and nobody would enter. After returning upstairs, Mr. Darley and myself accompanied Chief Lanford on a tour of inspection through the three upper floors of the factory, to the second floor, to the third floor and to the fourth floor, we looked into each bin, and each partition, and each dressing room and each work room, and even passed through the metal room and looked into that very dressing room that has figured so prominently in this trial, and neither Mr. Darley nor myself noticed anything peculiar on that floor, nor did Sergeant Lanford, Chief of the Atlanta detectives, notice anything peculiar. We then returned to the front, and took out of the clock the slip on which Newt Lee had punched the evening previous, and that clock slip, of course, was dated April 28th.

I removed the clock slip from the clock, and in the center of the sheet, between the top and bottom, I remember the No.

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133 and the number 134 (deft's Ex 41), I wrote on it "Taken out 8:26 A.M.," and two lines under it, with a casual look at that slip, you can't see it.

I can see it, When looking casually at that slip, you see nothing, and by the way, this sheet has been identified (Deft's Ex. 41), it is the one to which reference has been made so many times, and if you will look at it, you will see the date, April 28th, which we put on there on the evening of Saturday, April 26th, but if you will look opposite those numbers 133 and 134 and look very carefully, you can see where there has been erased from it what I put on there that morning in pencil to identify it, the words "taken out 8-26," and two lines, which it seems has been erased, but they couldn't erase it carefully enough, they even erased some of the printed line which runs across that sheet. This is the sheet (Deft's Ex 1) that I took out on Sunday morning, and looked at the clock to notice what time it was, and I laid it up against the dial of the clock, the glass face of the clock, and wrote down there the time which the clock then registered. I told them the sheet was just like you see it there, and I brought it to the office and Chief Lanford put it in his pocket; I then went into the office and got another time slip and dated it April 28th, similar to this one which was taken out, and which one it would replace, and put it back into the time clock to be used by the night watchman that night and by the help when they came to work on Monday morning. After taking this slip out (Deft's Ex. 1), Mr. Darley and myself casually looked over the slip to see if there were any errors, and we noticed over there that no successive numbers had been skipped, that is, the numbers on that slip are arranged successively, one, two, and three, and the time of ~~one~~ one, and there was no single line skipped, but we didn't notice the actual time shown by the punch, we only noticed that the

- 316 -

000637

successive punches were made at the time which the punches themselves showed. After putting a new slip in the clock, we all went out of the factory and went downstairs and locked the door, and I was going to go down to the office, to police headquarters, because the officers said they wanted to show me some notes which they said were found near the body and the pad lock and staple which they showed me had been withdrawn, and which they said had been taken down to the station the first time they had Newt Lee down there.

Now, gentlemen, I have heard a great deal, and so have you, in this trial, about nervousness, about how nervous I was that morning. Gentlemen, I was nervous, I was very nervous, I was completely unstrung, I will admit it; imagine, awakened out of my sound sleep, and a morning run down in the cool of the morning in an automobile driven at top speed, without any food or breakfast, rushing into a dark passageway, coming into a darkened room, and then suddenly an electric light flashed on, and to see the sight that was presented by that poor little child; why, it was a sight that was enough to drive a man to distraction; that was a sight that would have made a stone melt; and then it is suspicious, because a man who is ordinary flesh and blood should show signs of nervousness. Just imagine that little girl, in the first blush of young womanhood, had had her life so cruelly snuffed out, might a man not be nervous who looked at such a sight? Of course I was nervous; any man would be nervous if he was a man. We went with the officers in the automobile, Mr. Rogers was at the driving wheel, and Mr. Darley sat next to him, I sat on Mr. Darley's lap, and in the back was Newt Lee and two officers. We rode to headquarters very quickly and on arrival there Mr. Darley went

000631

up to Chief Lanford's office where I sat and talked and answered every one of their questions freely and frankly, and discussed the matter in general with them, trying to aid and to help them in any way that I could. It seemed that, that morning the notes were not readily accessible, or for some other reason I didn't get to see them, so I told them on leaving there that I would come back that afternoon, which I ultimately did; after staying there a few minutes, Mr. Darley and myself left, and inasmuch as Mr. Darley hadn't seen the body of the little girl, we went over to Bloomfield's on Pryor Street and Mitchell, and when we went into the establishment, they told us somebody was busy with the body at that time and we couldn't see it, and we started to leave, when we met a certain ~~man~~^{person} with whom we made arrangements to watch the building, because Newt Lee was in custody at that time. Mr. Darley and I then went over to Montag Brothers to see if any of the Montags had come downtown that morning, we arrived at their place, and found the same was locked, and that nobody was down there. We walked from Montag's place on Nelson Street down to Mitchell and Forsyth Street, where I bade Mr. Darley good-bye, and I walked down Mitchell Street to Pryor, where I caught a Georgia Avenue car and rode to the house of Mr. Sig Montag, our General Manager, corner of Glenn and Pryor Streets, and called on Mr. Montag and discussed with him at length and in detail what I had seen that morning and what the detectives had to say. After my conversation with him, I returned to my home at about a quarter to eleven, my home was 68 E. Georgia Avenue; I washed up and had my breakfast in company with my wife, in the dining room, and while I was eating breakfast, I told my wife of the experience I had had that morning. After I finished my breakfast, I left the house and went around to the home of Mr.

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Wolfsheimer, and at Mrs. Wolfsheimer's house, we found quite a company of ^{young} people, and the conversation turned largely on what I had seen that morning; also, among those who were present, were Mrs. L. G. Cohen, Mrs. N. G. Michael, Mrs. Carl Wolfsheimer, Julian Michael, Philip Michael, Miss Helen Michael, Miss Virginia Silverman, Miss May Lou Liebman, Julian Loeb and Herman Loeb. After staying there about an hour with my wife, I went in her company to visit the home of my brother-in-law, A. E. Marcus, whose home is situated on Washington Street opposite the Orphans' home; on our arrival there, the nurse Lucy told us that no one was at home, and we would find them probably at the home of Mrs. Ersenberg; we then went over to the Ersenberg house, which is situated on the corner of Washington and Pulliam Streets, and visited at that place, and saw Mr. and Mrs. A. E. Marcus, Mr. and Mrs. Chas. Ersenberg, Harold Marcus, Mr. and Mrs. Ben Ersenberg. Of course, the conversation was about the little girl that had been killed in the Pencil Factory basement that morning, of which they had heard, and we discussed it generally, although it was at that time as much a puzzle to me as it was apparently to everybody else. After staying here until about one o'clock or a little after, I returned with my wife to my home at 68 E. Georgia Avenue, where we took our lunch together with my parents-in-law, with Minola McKnight serving. After dinner, I read a little while, and finally caught the ten minutes to three Georgia Avenue car going downtown. I got off at the corner of Pryor and Mitchell Streets, and went into the undertaker Bloomfield's, where I saw a large crowd of people nearby on the outside; on entering I found quite a number of people who were working at the Pencil Factory, among whom were Mr. Schiff, Herbert Schiff,

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Viginci. I chatted with them a few minutes, and I noticed that the people who were going in to see the body were standing in line and moving in, and that others from the factory were going in and I thought I would go in too and pay my respects, and I went and stood in line, and went into the room again and staid a few minutes in the mortuary chamber; the little girl had been cleaned up, her hair had all been cleaned and smoothed out, and there was a nice white sheet over the rest of her body. I returned to the front of the undertaking establishment, and stood chatting with Herbert Schiff and Mr. Darley until the party with whom we had made the arrangements came up, and we gave them the keys with instructions as to watching the plant that night. Then Mr. Darley and Mr. Schiff and myself went down to police headquarters and went up into Chief Lanford's office, and the three of us stood talking there, answering all sorts of questions that not only Chief Lanford, but the other detectives, would shoot at us, and finally Mr. Darley said he would like to talk to Newt Lee; then he went into another room, and I presume they brought Newt Lee up from the cell, so he could talk to him. After Newt Lee was gone, the detectives showed us the two notes and the pad back with still a few unused leaves to it, and the pencil that they claimed they had found down in the basement near the body. Of course, Mr. Schiff and myself looked at those notes and tried to decipher them, but they were written exceedingly dim, and were very rambling and incoherent, and neither of us could recognize the handwriting, nor get any sense out of them at all. One of these notes ^(State's Ex. y) was written on a sheet of pencil pad paper, the same kind as that of this sheet which still remained on the pad back; the other was written on a sheet of yellow paper, apparently a yellow sheet.

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from the regulation order pad or order book of the National Pencil Company (State's Ex. Z); this sheet was a yellow sheet with black ruling on it, and certain black printing at the top. These are the two notes, (indicating papers.)

At the top of these notes where it showed the series and date, and you can see it has either been worn out or rubbed out, but the date was originally on there, and down below here is the serial number; now, both of those notes were written as though they had been written through a piece of carbon paper and the date said Jan. 8th, 1911; the order number is so faint or erased here that I can't even see what that is, but there is no trace of a date on this one at all, but it was there distinctly visible when Mr. Schiff and myself looked at it. We continued answering any questions that the detectives wished to put to us looking to a possible solution of the mystery, when Mr. Darley came in and said if they didn't want him any further, he would go off, that he had an appointment. A few minutes thereafter, Mr. Schiff and myself left police headquarters, and went down Decatur Street to Peachtree Street, and down Peachtree Street over the viaduct to Jacob's Alabama and Whitehall Street store, and went in, and each of us had a drink, and I bought a cigar for each of us at the cigar counter. Mr. Schiff had an appointment to meet some friends of his at the Union Depot that afternoon, and it was a little too early, so we took a walk around by the Pencil Factory, walking up Alabama to Forsyth Street and down Forsyth Street on the side opposite from the factory, to the corner of Hunter and Forsyth, where we notice the morbid crowd that had collected out in front of the factory; we stood there about a minute or two and then continued walking, and then went up East Hunter Street, and back Whitehall to the

corner of Whitehall and Alabama, where Mr. Schiff waited until I caught an Alabama Street or Georgia Avenue car and returned to my home. I returned to my home about a quarter to four, and found there was no one in, as my wife had told me that if she wasn't at home, she would probably be at the residence of Mr. Ersenberg, I proceeded over there, coming up Washington Street in the direction of the Orphans' Home, and on Washington Street, between Georgia Avenue and the next street down, which I believe is Bass Street, I met Arthur Haas and Ed Montag and Marcus Loeb, who stopped me and asked about things, they had heard about the little girl being dead in the Pencil Factory, and I stopped and discussed it with them, and I was about to leave them when Henry Bawer came along in his automobile and stopped where I was, and he asked me what I knew about it, and I had to stop and talk with him; and I finally got loose from him and went over to the home of Mr. Ersenberg on the corner of Pulliam and Washington Terrace, and when I arrived there, I found Mr. and Mrs. A. D. Marcus, Mr. and Mrs. Charlie Ersenberg, and my wife, and a little later Mr. and Mrs. Sig Selig came in. Here again the subject of conversation was what I had seen that morning and what the detectives had told me, and what I had told them and how the little girl looked, and all about it, as far as I knew. I staid there until about 5 o'clock, when Mr. Ike Haas, the Vice-President of the Pencil Factory, telephoned me to come over to his house, and I thereupon went over there, and on arriving at Mr. Haas' home, which is situated on Washington Street right across the way from the Orphans' Home, I talked to him about what I had seen that morning, and what I could deduce from the facts that were known and what the detectives had told me. I staid there until about 6 o'clock. On arrival at Mr. Haas',

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I saw there his wife, Mrs. Haas, his son Edgar Haas, and a cousin of my wife's, Monteclore Selig. My wife had left word with Mrs. Haas that I should call for her at the residence of Mr. Marcus, which is next door, or just a few doors away, and I went by and called for my wife at six o'clock and a few minutes before seven my wife and I left the residence of Mr. Marcus and started down Washington Street towards Georgia Avenue on our way home. On our way home, we met our brother-in-law, Mr. and Mrs. Chas. Eisenberg, going to the house from which we had just left. We reached home about seven or a little after for supper. After supper, I started to read the paper; between 8 and 8:30, I phoned up to my brother-in-law, Alex Marcus, and asked him if he would come down, but he said he thought he would not that evening, on account of the rain. I continued reading there in the hall that night or evening. There was company at the house of my father and mother-in-law, among the company being the following people, to the best of my recollection, Mr. and Mrs. Paul Liebman, Mr. and Mrs. Ike Strauss and Mr. and Mrs. Carl Wolfsheimer. About ten o'clock, all the company left, and I went upstairs with my wife and returned about ten o'clock.

The next morning, I arose about seven o'clock, and washed and shaved and dressed, and while I was so occupied, the door bell rang, and my wife again answered the door, and there were two detectives down there, one was John Black, and the other, I believe, Mr. Haslett, Haslett of the city detectives; I finished dressing and went downstairs, and they told me they wanted me to step down to headquarters with them, and I told them I would, but I stopped and got my breakfast, finished before I went with them. We

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walked from my home on Georgia Avenue down to Washington Street down to police headquarters, walking the whole way. On the way down, I asked detective Haslett what the trouble down at the station house was, and he said: "Well, Newt Lee has been saying something, and Chief Lanford wanted to ask you a few questions about it;" and I said; "What did Newt Lee say?" "Well, Chief Lanford will tell you when you get down there." Well, I didn't say anything more to him, went right along with him, and when I got down to police headquarters, I sat in one of the outer offices that the detectives use, it wasn't the office of Chief Lanford, he hadn't come down yet, that was about between 8 and 8:30 when I got down there. Well, I waited around the office possibly an hour, chatting and talking to the officers that came in and spoke to me, but I still didn't see anything of Chief Lanford; and bye and bye, probably after an hour, half past nine perhaps, Sig Montag and Herbert Haas, a couple of my friends, came up and spoke to me; I was conversing with them, and possibly at 10 o'clock, I saw Mr. Luther Rosser come up, and he said: "Hello Boys, what's the trouble?" And Mr. Haas went up to him and spoke to him, and they were talking together and a few minutes later Chief Lanford, who had in the mean-time arrived, and who seemed to be very busy running in and out answering telephone calls, came in and says: "Come here," and beckoned to me; and I went with him and went into his room, in his office, and while I was in there, to the best of my recollection, anyhow it is my impression now, that this very time slip (Deft's Ex. 1), on which at that time that "taken out at 8:26," with the two lines under it, had not been erased, was shown to me, and in looking over it and studying it carefully, I found where the

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interval of an hour had occurred three times during the time that Newt Lee had been punching on that Saturday night, April 26th. When I had first looked at it, I only noticed that every line had a punch mark on it, but I didn't notice what time the punch marks themselves were on; this time I studied the slip carefully, it was the same slip I had taken out of the clock, Chief Lanford or one of the officers handed it to me at police headquarters, which I absolutely identified with the writing which was on it, which you can very readily see if you look now, even though it has been erased. There seemed to be some altercation about Mr. Rosser coming in that room, and I heard Mr. Rosser say: "I am going into that room, that man is my client;" that was the first intimation I had that Mr. Rosser was going to look after my interests in this matter. Chief Beavers stated that he wanted me to give him a statement, and he said: "Mr. Frank, will you give us a statement?" And I said: "Certainly, I will give them a statement, I considered it only right that anybody that was at that factory that day should give the police a statement, telling who he had seen, where he had gone and what he had done; and I (State's Ex. B) gave them a statement freely and unreservedly, while I had no idea that I had to make a statement at that time, I did give it to the very best of my ability, freely, and answered every question that was put to me. Mr. February was sitting on the opposite side of the table from where I was sitting, Chief Lanford was sitting at a desk, and Mr. Rosser was sitting quite a distance away, probably 25 feet, sitting in the front window with his back to us. After I had given the statement, several of the officers came into the room, among them being Chief Beavers, and Chief Beavers and Chief Lanford and Mr.

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Rosser were apparently having a sort of conversation, and I overheard Mr. Rosser say: "Why, it is preposterous, a man who would have done such a deed must be full of scratches and marks and his clothing must be bloody." I imagine Mr. Rosser must have had an inkling that they were suspicious of me, and as soon as I heard that, I turned and jumped up and showed them my under clothing and my top shirt and my body, ~~(I bared it to them all that came within the range of their vision, I had everything open for them, and all they had to do was to look and see it.)~~ After that, Mr. Rosser insisted that two of the detectives, Mr. Black and another detective, accompany Mr. Hass, Mr. Herbert Haas, and myself to my home and look over my soiled clothing for the past week, which I anticipated had not been given to the wash woman. They complied with this request; Mr. Black and another detective and Mr. Haas and myself went over to the corner of Hunter and Washington Streets, and caught the Washington Street car and rode to Georgia Avenue and went to my home, and on this car my mother-in-law was sitting, returning to her home from town. On reaching 68 E. Georgia Avenue, I found there my wife's grandmother, Mrs. Cohen, and my father-in-law, Mr. Selig. The detectives immediately went upstairs to my room with Mr. Haas and myself, and I took the laundry bag in which my soiled laundry is always kept and emptied it out on the bed, and they examined each and every article of clothing that I had discarded that past week, and I again opened the clothing which I was then wearing, and which was the brown suit which I have here, this brown suit (Deft's Ex. 49) is the same suit I wore that Saturday, April 26th, and Monday April 28th, and I have worn that suit continuously since then until the weather became so hot, and it

to you for your examination. The detectives were evidently perfectly well satisfied with what they had seen there, and of course they left without any further remarks with Mr. Haas. I went downstairs and conversed with my folks down there until dinner-time, which was served to my father-in-law and my mother-in-law and my wife and myself by Minola McKnight. About that time, Mr. and Mrs. Wolfsheimer came in and conversed with us, Mr. Wolfsheimer telling me that he would take me downtown that afternoon in his automobile. After dinner, I telephoned down to the office and telephoned to Mr. Schiff, and told him to get Mr. Montag's permission for the Pencil Company to put on a detective, preferably a Pinkerton detective, to work with and assist the city detectives in ferreting out the crime, as an evidence of the interest in this matter which the National Pencil Company was taking, I thought it was no more than we ought to do, and I also told Mr. Schiff I would be down town between half past two and three. After conversing with my folks, I went around the corner to Mr. Wolfsheimer's house and got in his automobile, and he took me down town to his place of business, which is situated on Whitehall Street near Mitchell, and I got out of the automobile there and walked over to the Forsyth Street plant of the Pencil Factory and on going into the office, I saw the following men there: Mr. Herbert Schiff, Mr. Wade Campbell, Mr. Darley--Mr. Holloway was out in his place in the hall, and Mr. Spilker and Mr. Quinn and Mr. Ziganke, these foremen were sitting around there because we had shut down there, as they told me, due to the fact that the plant was wholly demoralized, the girls were running into hysterics, they couldn't stick at their work, they were crying and going on over what had happened there.

spoke to the boys who were there in the office about the happenings of that morning, of course, at more or less length. Then Mr. Quinn said he would like to take me back to the metal department on the office floor where the newspapers that morning had said that Mr. Barrett of the metal department had claimed he had found blood spots, and where he had found some hair. Mr. Quinn first took me to the little lathe back in the metal department, and explained to me that Mr. Barrett had told him just the same as he said here, that those strands of hair were so few in number that he didn't see them until he turned the handle and they wound around his fingers, and moreover that the position of the handle of the tool which that handle actuates on that tool, that small lathe, was in the same relative position to the work in the lathe as when they left it on Friday evening previous to that Monday. They then took me over to the place in front of the dressing room where it was claimed the blood spots were found. Now, I examined those spots, I didn't examine them standing up. I didn't depend on the light from the windows, but I stooped right down to those spots, and I took a strong electric flash lamp that we had around there and looked at them and examined them carefully, and I made a certain conclusion after that examination. Now, gentlemen, if there is any one thing in and about a factory, after my seven years of practical experience in factories, that I do know, it is the care and condition of factory floors. Now, take that metal plant for instance, that plant, as you know, is a place where we reform and shape and spin sheet brass, and of course, of necessity, we use a great deal of lubricant there; now, the lubricant that is used on this eyelet machine, these large machines that form of lubricant which is known as Haskoline compound; now,

the main ingredients of that compound are, for practical purposes, soap and oil, and in use, it is diluted to a great extent with water so it can flow easily onto the tools or onto the metal, so that the tools that they use it on wont get brittle or smeared up, and that haskoline compound is carried to these little machines in the metal room, right almost up to that dressing room, and that haskoline remains on them and sticks to them, and you are apt to find that haskoline compound on the floor there anywhere around in that metal room near any of those machines, and when it is spilled on the floor, it is not scoured up, but it is just swept up with a broom. Moreover, a point that has not been brought out, so far as I know, right opposite that dressing room is kept the scrap brass, the scrap barrels in which the scrap metal from the eyelet machines is put, and that is full of that haskoline compound, that metal being put into the barrel of course, with the fluid on it, it flows to the bottom and is apt to get out of the bottom of that barrel onto the floor. But, getting back to the floor of the metal room, there is a constant spilling of lubricants, and, as I say, it is composed largely of soap and oil, and that floor, by actual experiment, is covered to a thickness varying from a quarter to half inch, that is, you can scrape away that much before you get down to the original color of the wood; moreover, on top of that grease soaked floor, there is dirt more or less, and then somebody comes along with a water sprinkler and sprinkles it to sweep it up, and they go over the top of that, it don't sink into the floor, and the result is there is coat after coat of grease and dirt on that floor. Now, with reference to those spots that are claimed to be blood that Mr. Barrett found, I don't claim they are not blood, they may have been.

room, and we have had accidents there, and by the way, in reference to those accidents, the accidents of which we have had records, are not the only accidents that have happened there; for instance, a person cuts a finger; that is an accident, we give first aid to the injured in the office, and we don't have any report on that, the only reports we have are of those accidents that incapacitate the health, where they demand the money for the time that they have lost due to the accident, and we will have our Employers' Liability Insurance Company to pay the employees, but where people just cut their fingers and they go back to work, we don't make any record of that, and we have people cutting their fingers there very often, and when they cut their fingers, their line of travel is right by that place where Mr. Barrett found those spots, right to the office. Now, we use paint and varnish around there, a great deal of it, and while I don't say that this is not blood, it may be, but it could also have been paint, I have seen the girls drop bottles of paint or varnish and have them break there on the floor, I have seen that happen right close to that spot, but the main point about it is this, gentlemen; when I got down and looked at it, you could have scratched away from the top of those dark stains an accumulation of dirt that was not the accumulation of a day or two days or three days or three weeks, but it was at least three months, from off the top of those spots, without touching the spot itself. Moreover, that white stuff was unquestionably, in my opinion, hasoline compound, and it was dry and it had to be put on, because it showed all evidences of having been swept, so it had to be put on the wood in a liquid state; if that had been fresh red paint, or if that had been fresh red blood, and

~~that would be a compound that goes in it which is a great~~

solvent, should have been put on there in a liquid state, it would not have showed up white, as it showed up then, but it would have showed up either pink or red, and where the spot of blood was, or whatever it was, that stuff was white, and not pink or red.

I returned after making this examination from which I noticed two or three or four chips had been knocked up, the boys told me, by the police that morning; I returned to my office and gathered up what papers I had to take over to Montag Brothers, and I took over the financial report which I had made out the Saturday afternoon previous, and I talked it over with Mr. Sig Montag. I had a good long conversation with Mr. Montag with reference to the occurrences that morning and we decided that since the papers had stated that I was being detained at headquarters, it would be best to let my uncle, who was ill, and who is an elderly man, being over 70 years of age, and who was on the point of taking a trip to Europe, and I didn't want him to be unnecessarily alarmed by seeing in the papers that I was detained, and I wrote a telegram to Mr. Adolph Montag informing him that I was no longer in custody, that I was all right, and that he could communicate that to my uncle. That was so that my uncle should not get hold of an Atlanta paper and see that I was in custody and be unnecessarily alarmed.

I returned from Montag Brothers to the Pencil Factory, being accompanied by one of the traveling men, Mr. Hines, Mr. Sol. Hines, and on my arrival at the factory I went up into the office and distributed the various papers all over the factory to be acted on the next day. In a few minutes Mr. Harry Scott of the Pinkerton detectives came in and I took him aside into my office, my private office, and spoke to him in

in the presence of Mr. N. V. Darley and Mr. Herbert Schiff. I told him that I expected that he had seen what had happened at the Pencil Factory by reading the newspapers and knew all the details. He said he didn't read the newspapers and didn't know the details, so I sat down and gave him all the details that I could, and in addition I told him something which Mr. Darley had that afternoon communicated to me, viz: that Mrs. White had told him that on going into the factory at about 12 o'clock noon on Saturday April 26th, she had seen some negro down by the elevator shaft. Mr. Darley had told me this and I just told this to Mr. Scott. After I told Mr. Scott all that I could, I took him around the building, took him first back to the metal room and showed him the place where the hair had been found, looked at the machinery and at the lathe, looked at the table on which the lathe stands, and the lathe bed and the floor underneath the lathe, and there wasn't a spot, much less a blood spot underneath. I showed him the other spot in front of the dressing room, and I took him to the fourth floor and showed him where I had seen White and Denham a little before one the first time and about three the second time. Then I took him down into the basement and made a thorough search of the basement, and that included an examination of the elevator well which was at the bottom of the elevator shaft, and I noticed Mr. Scott was foraging around down there and he picked up two or three or may be four articles and put them in his pocket, and one of them I specially noticed was a piece of cord exactly like that which had been found around the little girl's neck. We then (went) back and I showed him where the officer said the slipper had been found, the hat had been found and the little girl's body was located. I showed him in fact, everything that the officers had showed us.

I opened the back door and we made a thorough search of the alleyway and went up and down the alleyway and then went down that alleyway to Hunter Street and down Hunter to Forsyth and up Forsyth in front of the Pencil Factory. In front of the Pencil Factory I had quite a little talk with Mr. Scott as to the rate of the Pinkerton Detective Agency. He told me what they were and I had Mr. Schiff to telephone to Mr. Montag to find out if those rates were satisfactory. He phoned back the answer that he would engage them for a few days at any rate. Mr. Scott then said: "Well, I don't need anything more," and he says: "The Pinkertons in this case, according to their usual custom in ferreting out the perpetrator of this crime, will work hand-in-hand with the city officers." I said; "All right, that suits me." And he went on his way. About that time my father-in-law joined the group over in front of the factory and after talking for some time my father-in-law and I left and we arrived home about 6:30 I should judge, and found there my mother-in-law and my wife and Minola McKnight, and we had supper. After supper my two brothers-in-law and their wives came over to visit us and they staid until about 10 o'clock, after which my wife and I retired. On Tuesday morning I arose sometime between seven and seven-thirty, leisurely dressed and took my breakfast and caught the 8:10 car coming towards town, the Georgia Avenue car, and when I went to get on the car I met a young man by the name of Dickler and I remember paying the fare for both of us. When I arrived at the Pencil Factory about 8:30, I immediately entered upon my routine work sending the various orders to the various places in the factory where they were due to go, and about 9:30 I went on my usual trip over to Montag Brothers to see the General Manager. After staying over there a short while I

company with another one of their traveling men, Mr. Jordan. At the corner of Forsyth and Hunter Street I met up with a cousin of my wife's, a Mr. Selig, and we had a drink at Cruickshank's soda fount at the corner of Hunter and Forsyth. Then I went up into the factory and separated the papers I had brought back with me from Montag Brothers, putting them in the proper places, and sending the proper papers to the different places. I was working along in the regular routine of my work, in the factory and about the office, and a little later detectives Scott and Black came up to the factory and said: "Mr. Frank, we want you to go down to headquarters with us," and I went with them. We went down to headquarters and I have been incarcerated ever since. We went down to headquarters in an automobile and they took me up to Chief Lanford's office. I sat up there and answered any questions that he desired, and I had been sitting there sometime when detective Scott and detective Black came back with a bundle under their arm. They showed me a little piece of material of some shirt, and asked me if I had a shirt of that material. I looked at it and told them I didn't think I ever had a shirt of that description. In the meantime they brought in Newt Lee, the night watchman, brought him up from a cell and showed him the same sample. He looked at it and immediately recognized it; he said he had a shirt like that, but he didn't remember having worn it for two years, if I remember correctly, that is what he said. Detectives Scott and Black then opened the package they had and disclosed the full shirt (State's Ex. F) of that material that had all the appearance of being freshly stained with blood, and had a very distinct odor. Newt Lee was taken back to the cell. After a time Chief Lanford came over to me and began an examination of my face and of my head

and my hands and my arms. I suppose he was trying to hunt to see if he could find any scratches. I stayed in there until about 12 o'clock when Mr. Rosser came in and spoke to the detectives, or to Chief Beavers. After talking with Chief Beavers he came over to me and said to me that Chief Beavers thought it better that I should stay down there. He says: "He thinks it better that you be detained at headquarters, but if you desire, you don't need to be locked up in a cell, you can engage a supernumerary policeman who will guard you and give you the freedom of the building." I immediately acquiesced, supposing that I couldn't do anything else, and Mr. Rosser left. Now, after this time, it was about this time they took me from upstairs down to the District Sergeant's desk and detective Starnes--John N. Starnes, I think his name is, came in and dictated from the original notes that were found near the body, dictated to me to get a sample of my handwriting. ~~Have you got those photographs there? (Photographs handed to the defendant).~~ I wrote this note at the dictation of Mr. Starnes (State's Ex. K), which was given to me word by word, and of course I wrote it slowly. When a word was spelled differently they usually stopped--take this word "buy" for instance, the detective told me how that was spelled so they could see my exact letters, and compare with the original note. Now I had no hesitation in giving him a specimen of my handwriting. Now, this photograph is a reproduction of the note. You see, J. N. Starnes in the corner here, that is detective Starnes, and then is dated here, I put that there myself so I would be able to recognize it again, in case they tried any erasures or anything like that. It is a photographic reproduction of something that was written in pencil, as near as one can judge, a photographic reproduction

of the note that I wrote. Detective Starnes then took me down to the desk sergeant where they searched me and entered my name on the book under a charge of suspicion. Then they took me back into a small room and I sat there for awhile while my father-in-law was arranging for a supernumerary police to guard me for the night. They took me then to a room on the top of the building and I sat in the room there and either read magazines or newspapers and talked to my friends who came to see me until I was about to retire at midnight. I had the cover of my cot turned back and I was going to bed when detective Scott and detective Black, at midnight, Tuesday, April 29th, came in and said: "Mr. Frank, we would like to talk to you a little bit. Come in and talk to us." I says, "Sure, I will be only too glad to." I went with them to a little room on the top floor of the headquarters. In that room was detective Scott and detective Black and myself. They stressed the possibility of couples having been let into the factory at night by the night watchman, Newt Lee. I told them that I didn't know anything about it, that if I had, I certainly would have put a stop to it long ago. They said: "Mr. Frank, you have never talked along with Newt Lee. You are his boss and he respects you. See what you can do with him. We can't get anything more out of him, see if you can." I says: "All right, I understand what you mean; I will do my best, because I was only too willing to help.. Black says: "Now put it strong to him, put it up strong to him, and tell him to cough up and tell all he knows. Tell him that you are here and that he is here and that he better open up and tell all he knows about happenings at the Pencil Factory that Saturday night, or you will both go to hell." Those were the detective's exact words. I told Mr. Black I caught his meaning,

and in a few minutes afterwards detectives Starnes brought up Newt Lee from the cell room. They put Newt Lee into a room and hand-cuffed him to a chair. I spoke to him at some length in there, but I couldn't get anything additional out of him. He said he knew nothing about couples coming in there at night, and remembering the instructions Mr. Black had given me I said: "Now, Newt, you are here and I am here, and you had better open up and tell all you know, and tell the truth and tell the full truth, because you will get us both into lots of trouble if you don't tell all you know," and he answered me like an old negro: "Before God, Mr. Frank, I am telling you the truth and I have told you all I know." And the conversation ended right there. Within a minute or two afterwards the detectives came back into the room, that is, detective Scott and detective Black, and then began questioning Newt Lee, and then it was that I had my first initiation into the third degree in Atlanta police department. The way that fellow Black cursed at that poor old negro, Newt Lee, was something awful. He shrieked at him, he hollered at him he cursed and did everything but beat him. Then they took Newt Lee down to a cell and I went to my cot in the outer room.

Now before closing my statement, I wish to touch upon a couple of insinuations and accusations other than the one on the bill of indictment, that have been leveled against me so far during the trial. The first is this, the fact that I would not talk to the detectives; that I would not see Jim Conley. Well, let's look into the facts a few minutes, and see whether there was any reason for that, or if there be any truth in that statement.

establishment, to the factory, and I went to headquarters. I went to headquarters the second time, going there willingly without anybody coming for me. On each occasion I answered them frankly and unreservedly, giving them the benefit of the best of my knowledge, answering all and any of their questions, and discussing the matter generally with them. On Monday they came for me again. I went down and answered any and all of their questions and gave them a statement which they took down in writing, because I thought it was right and I was only too glad to do it. I answered them and told them all that I knew, answering all questions. Tuesday I was down at police station again, and answered every question and discussed the matter freely and openly with them, not only with the police, but with the reporters who were around there; talked to anybody who wanted to talk with me about it, and I have even talked with them at midnight when I was just about to go to bed. Midnight was the time they chose to talk to me, but even at such an outlandish hour I was still willing to help them, and at their instigation I spoke to Newt Lee alone, but what was the result? They commenced and they grilled that poor negro and put words into his mouth that I never said, and twisted not alone the English, but distorted my meaning. I just decided then and there that if that was the line of conduct they were going to pursue I would wash my hands of them. I didn't want to have anything to do with them. On the afternoon of May 1st, I was taken to the Fulton County tower. On May 3rd detectives Black and Scott came up to my cell in the tower and wanted to speak to me alone without any of my friends around. I said all right, I wanted to hear what they had to say that time. Then Black tore off something like this: "Mr. Frank, we are suspicious of that man Darley. We are watching him;

know about him." I said: "Gentlemen, you have come to the wrong man, because Mr. Darley is the soul of honor and is as true as steel. He would not do a crime like that, he couldn't do it." And Black cherged up: "Come on, Scott, nothing doing," and off they go. That showed me how much reliance could be placed in either the city detectives or our own Pinkerton detectives, and I treated such conduct with silence and it was for this reason, gentlemen, that I didn't see Conley, surrounded with a bevy of city detectives and Mr. Scott, because I knew that there would not be an action so trifling, that there was not an action so natural but that they would distort and twist it to be used against me, and that there was not a word that I could utter that they would not deform and twist and distort to be used against me, but I told them even then if they got the permission -- I told them through my friend Mr. Klein, that if they got the permission of Mr. Rosser to come, I would speak to them, would speak to Conley and face him or anything they wanted--if they got that permission or brought Mr. Rosser. Mr. Rosser was on that day up at Tallulah Falls trying a case. Now, that is the reason, gentlemen, that I have kept my silence, not because I didn't want to, but because I didn't want to have things twisted.

Then that other implication, the one of knowing that Conley could write, and I didn't tell the authorities: Let's look into that. On May 1st I was taken to the tower. On the same date, as I understand it, the negro Conley was arrested. I didn't know anybody had any suspicions about him. His name was not in the papers. He was an unknown quantity. The police were not looking out for him; they were looking out for me. They didn't want him, and I had no inkling that he

ever said he couldn't write. I was sitting in that cell in the Fulton County jail--it was along about April 12th, April 12th or 14th--that Mr. Leo Gottheimer, a salesman for the National Pencil Company, came running over, and says, "Leo, the Pinkerton detectives have suspicions of Conley. He keeps saying he can't write; these fellows over at the factory know well enough that he can write, can't he?" I said: "Sure he can write." "We can't prove it. The nigger says he can't write and we feel that he can write." I said, "I know he can write. I have received many notes from him asking me to loan him money. I have received too many notes from him not to know that he cannot write. In other words, I have received notes signed with his name, purporting to have been written by him, though I have never seen him to this date use a pencil." I thought awhile and then I says: "Now, I tell you; if you will look into a drawer in the safe you will find the card of a jeweler from whom Conley bought a watch on the installment. Now, perhaps if you go to that jeweler you may find some sort of a receipt that Conley had to give and be able to prove that Conley can write." Well, Gottheimer took that information back to the Pinkertons; they did just as I said; they got the contract with Conley's name on it, got back evidently to Scott and then he told the negro to write. Gentlemen, the man who found out or paved the way to find out that Jim Conley could write is sitting right here in this chair. That is the truth about it.

Then that other insinuation, an insinuation that is dastardly that it is beyond the appreciation of a human being, that is, that my wife didn't visit me: now the truth of the matter is this, that on April 29th, the date I was taken in custody at

police headquarters, my wife was there to see me, she was downstairs on the first floor; I was up on the top floor. She was there almost in hysterics, having been brought there by her two brothers-in-law, and her father. Rabbi Marx was with me at the time. I consulted with him as to the advisability of allowing my dear wife to come up to the top floor to see me in those surroundings with city detectives, reporters and snapshotters; I thought I would save her that humiliation and that harsh sight, because I expected any day to be turned loose and be returned once more to her side at home. Gentlemen, we did all we could do to restrain her in the first days when I was down at the jail from coming on alone down to the jail, but she was perfectly willing to even be locked up with me and share my incarceration.

Gentlemen, I know nothing whatever of the death of little Mary Phagan. I had no part in causing her death nor do I know how she came to her death after she took her money and left my office. I never even saw Conley in the factory or anywhere else on that date, April 26th, 1913.

The statement of the witness Dalton is utterly false as far as coming to my office and being introduced to me by the woman Daisy Hopkins is concerned. If Dalton was ever in the factory building with any women, I didn't know it. I never saw Dalton in my life to know him until this crime.

In reply to the statement of Miss Irene Jackson, she is wholly mistaken in supposing that I ever went to a lady's dressing for the purpose of making improper ~~use~~ ^{glances} into the girls' room. I have no recollection of occasions of which she speaks, but I do know that that ladies' dressing room on the fourth floor is a mere room in which the girls change their outer clothing. There was no bath or toilet in that room, and it

had windows opening onto the street. There was no lock on the door, and I know I never went into that room at any hour when the girls were dressing. These girls were supposed to be at their work at 7 o'clock. Occasionally I have had reports that the girls were flirting from this dressing room through the windows with men. It is also true that sometimes the girls would loiter in this room when they ought to have been doing their work. It is possible that on some occasions I looked into this room to see if the girls were doing their duty and were not using this room as a place for loitering and for flirting. These girls were not supposed to be dressing in that room after 7 o'clock and I know that I never looked into that room at any hour when I had any reason to suppose that there were girls dressing therein.

The statement of the negro Conley is a tissue of lies from first to last. I know nothing whatever of the cause of the death of Mary Phagan and Conley's statement as to his coming up and helping me dispose of the body, or that I had anything to do with her or to do with him that day is a monstrous lie.

The story as to women coming into the factory with me for immoral purposes is a base lie and the few occasions that he claims to have seen me in indecent positions with women is a lie so vile that I have no language with which to fitly denounce it.

I have no rich relatives in Brooklyn, N.Y. My father is an invalid. My father and mother together are people of very limited means, who have barely enough upon which to live. My father is not able to work. I have no relative who has any means at all, except Mr. M. Frank who lives in Atlanta, Ga.

Nobody has raised a fund to pay the fees of my attorneys. These fees have been paid by the sacrifice in part of the small property which my parents possess.

Gentlemen, some newspaper men have called me "the silent man in the tower," and I kept my silence and my counsel advisedly, until the proper time and place. The time is now, the place is here, and I have told you the truth, the whole truth.

EVIDENCE IN REBUTTAL FOR STATE.

J. R. FLOYD, R. M. GODDARD, A. L. GODDARD, N. J. BALLARD, HENRY CARR, J. S. RICE, LEM SMITH, all sworn for the State, testified that they knew Daisy Hopkins; that her general character for truth and veracity was bad and that they would not believe her on oath. J. R. Floyd testified that he heard Daisy Hopkins talk about Frank and said there was a cot in the basement.

J. T. HEARN, Sworn for the State.

I have known U. B. Dalton from 1890 to 1904. At first his general character was bad, but the last I knowed of him, it was good. I would believe him on oath.

CROSS EXAMINATION. I heard of his being indicted for stealing and selling liquor, but the last year he was in Walton County he joined the church and I never heard a word against him after that.

R. V. JOHNSON, Sworn for the State.

I have known C. B. Dalton for about twenty years. His character for truth and veracity is good, and I would believe him on oath.

CROSS EXAMINATION. I didn't hear he was indicted for liquor selling before he left my county. He was in good standing when he left the church. I knew he was in the chaingang for stealing about 18 or 20 years ago.